

THE ATHENIAN FAMILY
A SOCIOLOGICAL AND LEGAL STUDY

BASED CHIEFLY ON THE WORKS

OF

THE ATTIC ORATORS

A DISSERTATION

PRESENTED TO THE BOARD OF UNIVERSITY STUDIES OF THE
JOHNS HOPKINS UNIVERSITY IN CONFORMITY WITH THE REQUIREMENTS FOR
THE DEGREE OF DOCTOR OF PHILOSOPHY

BY

CHARLES ALBERT SAVAGE

BALTIMORE

1907

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Andocides, Blass; Lysias, Isaeus, Scheibe; Isocrates, Benseler & Blass; Demosthenes, Dindorf; Aeschines, Lycurgus, Blass; Xenophon, *Oeconomicus*, Dindorf; *Memorabilia*, Gilbert; Homer, Dindorf; Lyric Poets, Buchholz; Aeschylus, Weil; Sophocles, Dindorf; Euripides, Nauck; Aristophanes, Bergk; Plato, Hermann; Aristotle, *Politics*, Susemihl & Hicks; Plutarch, Sintenis; Plautus, Goetz & Schoell; Terence, Fleckeisen.

PREFATORY NOTES

Of the authors named in the bibliography, the writer is especially indebted to Perrot, Jebb, Becker, Meier & Schömann, Mahaffy, Jones (Sir William), and Wyse. It was Perrot's charming and sympathetic work, *L'Éloquence Politique et Judiciaire à Athènes*, which first awakened the writer's interest in Athenian ancestor worship and inheritance law; and Jebb, especially in his *Attic Orators*, and in the introduction and notes of his beautiful edition of Sophocles' *Antigone*, has at all times been exceedingly helpful and stimulating. Too much cannot be said in praise of the learned work of Becker, whose *Charicles* has of course become a household word with students of Greek everywhere. No person interested in Greek private life can afford to be without this valuable book, which has been constantly consulted by the writer at many stages of his work. Of the scholarly and exhaustive treatise of Meier & Schömann little need be said; this standard work is of course invaluable for all who are in any way interested in Athenian public or private law. The learned works of Blass, Schömann, and Hermann, and Moy's charming treatise on Isaeus, are too well known and too highly regarded to need commendation; the writer has found them exceedingly valuable. To Mahaffy's delightful and suggestive works, *Social Life in Greece* and *Greek Life and Thought*, the writer cheerfully acknowledges his obligation; he also takes this opportunity to express his indebtedness to the admirable work of Sir William Jones, that pioneer in Isaeic study. And finally, Wyse's commentary on Isaeus has been of very great assistance to the writer. This edition of Isaeus is a learned and comprehensive work, and one which may perhaps be said to mark an epoch in Isaeic study. It is a work which no advanced student of Greek oratory can dispense with, not only because of the large amount of valuable information which it contains, and the immense amount of research which it represents, but because—as is indicated in the chapter following—

it shows the darker side of Greek oratory; in other words, it exhibits in a striking manner the characteristic faults of a representative Greek advocate. Wyse has written his work chiefly with the purpose of impugning the veracity and discrediting the authority of Isaeus as an advocate and interpreter of Attic law. That he has succeeded in his remarkable purpose to a considerable extent, in so far as the veracity and integrity of the orator are concerned, cannot be doubted; but it will also be evident to the impartial student of Greek oratory that Wyse, in his spirit of bitter hostility to Isaeus, has at times gone altogether too far; that he is not always impartial, and is sometimes unfair in his attitude toward the great master of Attic law. One cannot avoid a feeling of regret that in so scholarly and comprehensive a work the author should almost invariably have suppressed even that commendation of Isaeus' stylistic merits which most critics have cheerfully accorded him. Valuable as the work of the English scholar unquestionably is, it would nevertheless be likely to prejudice the average student against the oratorical masters of the Old World, unless studied in conjunction with other works more impartial or more sympathetic in their tone—such works as those of Perrot, or of that most delightful of English humanists, the late Sir Richard Jebb.

The writer has used the word "Demosthenic" with reference to the whole body of writings passing under the orator's name. He has used the word "Pseudo-Demosthenes," for the sake of convenience, with reference to the orations classed as spurious or doubtful in the Dindorf edition.

It has seemed desirable to the writer to include in the body of this dissertation the chapter treating of the position of Athenian women, although the chapter deals with a number of topics outside the relations of the family. As this dissertation will perhaps be read by persons interested in sociology, ancient law, history, or other subjects, as well as by classical scholars, the writer has deemed it best to treat the subject as indicated, in order that certain of the phenomena discussed in the later chapters may be the more readily appreciated. For the sake of clearness, therefore, and also for the sake of unity and the

logical development of the thought, the chapter in question has been written and placed where it stands.

The writer has referred incidentally to a number of works not included in the bibliography.

The author has found it a difficult matter to confine this work within the bounds of a dissertation. It has developed quite beyond his expectations; and he fully realizes that certain of the topics which have been discussed in the following chapters could readily be expanded into dissertations—and in fact have been treated with great elaboration in some instances, especially by German scholars. The writer has not, however, deemed it advisable to multiply details and references beyond a certain point; in fact, such a multiplication of minutiae would be impracticable in a dissertation wide in its scope and somewhat general in its character. While aiming at conciseness, the author nevertheless entertains the hope that nothing has been sacrificed which is in any way vital and essential to the subject.

In case the bibliography, to some critics, may not seem sufficiently exhaustive, the writer desires to state that a very considerable part of the work of enlarging and completing this dissertation, and preparing it for the press, has been done under difficulties, at a distance from any large classical library.* It is the writer's intention to prosecute further, at some future time, his investigations in the sphere of Greek private life, as he has opportunity.

The writer takes this occasion to express his indebtedness to those members of the Johns Hopkins Faculty whose courses he followed while in attendance at that institution. To Professor Gildersleeve he is especially indebted for inspiration, counsel, and guidance; and he also takes pleasure in acknowledging his obligations to Professor Warren (now of Harvard) and to Professors Smith, Spieker, Bloomfield, and Miller, of Johns Hopkins.

* The absence of adequate library facilities has been due to the destruction by fire of the classical libraries of the University of Minnesota, with which institution the writer has been for some time connected.

THE ATHENIAN FAMILY.

CHAPTER I.

INTRODUCTION.

The following discussion of Athenian private life, in its more important sociological and legal aspects, is based chiefly on the works of the Attic orators, and especially on the orations of Isaeus, Demosthenes, and Lysias. Valuable material has also been found in the works of authors belonging to other departments of Greek literature, and particularly in the dramatic poets, Xenophon, and the philosophers;

Materials for our Sketch. for it is obvious that the different departments of a nation's literature represent different points of view and different tendencies of thought, and that the contributions of every department should receive due consideration, if one would gain clear and satisfactory conceptions of the private life of the people as a whole. Moreover, we shall observe that in the orators—valuable though they are—the formal and legal aspects of Athenian life are emphasized; and it is obvious that no conceptions of a nation's life, based exclusively upon such aspects as these, would be entirely adequate and satisfactory.

Of all the Attic orators, the writer is most deeply indebted to Isaeus, inasmuch as the works of this author contain so much of the material necessary for reconstructing the family life of the Athenians, and for understanding the influences by which that life was dominated. And if the

Isaeus the Delineator of Social Life. pictures which Isaeus draws are not always complete in detail,—if, as Sir William Jones quaintly remarks (*Works*, Vol. iv, p. 240), “some few clouds and dark places are left in

them,”—we have only to place beside them the clear-cut sketches of Lysias and the powerful and realistic portrayals of Demosthenes, in order to form a reasonably clear and satisfactory conception of Athenian private life in its formal and legal aspects. And yet in Isaeus the essential outlines are

clear; and the valuable sociological data contained in his works render them especially important. Sir Richard Jebb says of Isaeus: "There is scarcely any Greek writer who so much helps us to understand the meaning which the old Greeks attached to the family. The light which he gives is not merely on scenic detail, but also on those relations of the actors which touch the springs of social life" (*Selections from the Attic Orators*, Introd. pp. 17-18).

As illustrative of the accuracy of these observations, we may refer briefly to the narrative contained in Isaeus' 6th oration. Here we read of an aged man who has been blessed in his family ties and has prospered in his enterprises,—whose life, in short, has been exceptionally happy,—but who finally forms an unfortunate attachment, enters upon a career of vice, and is utterly ruined. He abandons and humiliates his family, loses his health, his reason, and a large part of his property, and eventually dies under peculiarly sad circumstances, with no member of his family near to minister to him in his last hours. The story is told with dramatic force, and the scenes are portrayed with wonderful vividness. But apart from the interest which the reader feels in the narrative, he gains much information with respect to the life and environment of the Athenian family. The relations existing between the father and the son, the dependent position of the wife and the daughters, the status of the widow, the relations of the brothers, the fear of a "desolate heritage," the institution of adoption, the obligations of the family to the State, the importance of the religious observances, the inheritance rights of the sons and daughters, and the questions of bigamy and concubinage,—all these topics present themselves in this single oration.

But it is not merely as a painter of ancient life and manners that Isaeus appeals to us; his extant speeches also constitute a series of legal documents which are of importance and interest for modern students of law. His orations are regarded as "the oldest documents in the world which illustrate with minuteness and detail the workings of a Jurist. Testamentary Law" (Jebb, *Attic Orators*, Vol. II, p. 315). And as illustrative of the peculiar importance and significance of inheritance law, especially as applied

to the Athenians, Perrot well says: "In all the rules which govern the life of a nation, there is none in which accident and the personal views of the legislator play a less important part; there is none which perpetuates itself longer and which transmits in a more faithful manner the most secret instincts, the most obscure and the most profound sentiments of this or that variety of the human soul. . . . Everything here* is dominated by certain primitive instincts and certain elementary ideas; by the manner in which this or that race has constituted the family, conceived of life, and pictured to itself the destiny of man after death. For modern science, which labors with so impassioned a curiosity to create anew the forms of vanished states of society, the preservation of these orations of Isaeus is a rare good fortune" (*L'Éloquence Politique et Judiciaire à Athènes*, p. 358).

Of Isaeus himself, and his unique position in the domain of inheritance law, Perrot remarks: "No ancient author has aided us as much as Isaeus in understanding the laws regulating succession, and in reestablishing them in their logical unity and antique originality. . . . And the orator does not confine himself to the texts he cites to establish his case; he seeks to disengage from them the thought with which the legislator was inspired; he rises to the principles and axioms of law. . . . He is at all times the jurist, engaged either in brightly illuminating the principles of Athenian law, or in pointing out their omissions and defects" (*Ibid.* pp. 358, 359, 389).

Unfortunately, Isaeus has another side, and a side which Perrot, with all his delightful sympathy and enthusiasm, is inclined to overlook. A careful student of the Attic orators, and especially one who reads Isaeus with the aid of Wyse's copious commentary, cannot fail to be impressed with the fact that the Athenian advocates were not always actuated by the loftiest ideals; that they were sometimes unscrupulous, and not infrequently resorted to trickery and sophistry in order to gain a point and influence the tribunals. Wyse has conclusively shown that Isaeus, at times, employed questionable, unfair, and perhaps even dishonorable tactics, in order to gain a point.

* The writer is referring to the domain of inheritance law.

And yet such faults as these were characteristic of the age and of the society in which the orator lived; and although at times he may have shown himself to be an unscrupulous advocate, yet, in my judgment, neither Wyse nor any other adverse critic has succeeded in dislodging Isaeus from the commanding position which he holds as a great and authoritative interpreter of Athenian law.

But it is not merely as an interesting delineator of ancient life and manners, and as a distinguished jurist, that Isaeus appeals to us. As a great stylist, this reputed teacher of Demosthenes has strongly impressed himself upon classical scholars. For, although Isaeus' extant works deal

Isaeus almost exclusively with inheritance law, yet his ora-
the tions are far from being monotonous in style or
Stylist. treatment; his language is characterized at times by great power and beauty, and the variety of his style is admirably adapted to the varying phases of his subject-matter. He is, in short, a literary artist of a high order; and his speeches compare favorably with the private orations of the great Demosthenes in beauty, vigor, and persuasiveness. Sir William Jones, in comparing Isaeus with Demosthenes, naïvely remarks: "He (Isaeus) would probably have thundered with equal energy in the assembly of Athenian citizens, if his temper and inclination had not induced him to prefer the certain advantages of a very useful profession to the precarious favors which the giddy populace bestow at their pleasure" (*Works*, Vol. IV, p. 13).

It will readily be acknowledged, I think, even by the casual observer, that Isaeus—that "learned jurist, finished rhetorician, able and impassioned pleader"—holds an important and distinctly unique position in Greek literature. And he should appeal not only to classical scholars, students of laws, sociologists, and antiquarians, but to historical scholars as well,—in short, to an enlightened and cultivated public during every period of human thought.

* Perrot, *op. cit.* p. 405.

CHAPTER II.

THE RELIGIOUS FEELING IN ATHENIAN PRIVATE LIFE.

In approaching the subject of Athenian private life, we are impressed at the outset by the strong religious feeling which permeated the life of the individual, dominated the relations of the family, and strikingly manifested itself in the attitude of the State toward the family as a whole, and toward the individuals constituting the family. I do not refer primarily to the feeling of reverence for the great Olympian deities, such as is revealed so frequently in the pages of Herodotus and Xenophon, for example; I refer rather to the homage universally offered by the Greeks to their dead, and particularly to the ancestor worship which constituted so prominent a feature of Athenian life. And it will be observed that this religious feeling, in its

**The Religious
Feeling which
pervades Greek
Literature.**

various manifestations, is not confined to any one department of Greek literature; it reveals itself not only in the elevated language of poetry, in the calm utterances of the philosophers, and in the unimpassioned narrative of the historian, but—what is most significant of all—in the deliberate and impressive language of the law courts. That the practical Athenian should have regarded as the most fitting climax of a long and complicated legal argument an impassioned appeal to the judges to remember the sacred obligations to the dead, speaks volumes for the intensity and reality of the religious feeling in Greek life.*

* It is worthy of note, however, that the primitive religious element was not wholly predominant in the Athenian system of succession, as it was in the Hindoo system; nor, on the other hand, can the Athenian system be likened to the Roman testamentary law of Cicero's time, which had separated itself from religion. Sir Richard Jebb remarks: "The Athenian system belongs essentially to the same stage as the Hindoo system. It has not, like the Roman law of Cicero's time, passed that point of development at which testation proper begins. But, in spirit, the Athenian system may be regarded as intermediate between the Hindoo and the Roman" (*Attic Orators*, Vol. II, p. 317; cf. Maine, *Ancient Law*, pp. 192 ff.).

It is evident that from time immemorial there existed a deep-seated conviction among the Greeks that the person of the dead was sacred, and was entitled to receive every honor at the hands of the living; and that the deprivation of such honors would inevitably entail suffering upon the spirit of the departed. Sir Richard Jebb, in the introduction of his edition of Sophocles' *Antigone*

**The Feeling
of the Greeks
for the Dead.**

(pp. xxii-xxiii), in speaking of the attitude of the early Greeks toward the dead, remarks: "It is true that the legends of the heroic age afford some instances in which a dead enemy is left unburied, as a special mark of abhorrence. This dishonor brands the exceptionally base crime of Aegisthus (Soph. *El.* 1487 ff.). Yet these same legends show that, from a very early period, Hellenic feeling was shocked at the thought of carrying enmity beyond the grave, and withholding the rites on which the welfare of the departed spirit was believed to depend. . . . Achilles maltreated the dead Hector. Yet even there, the *Iliad* expresses the Greek feeling by the beautiful and touching fable that the gods themselves miraculously preserved the corpse from all defacement and from all corruption, until at last the due obsequies were rendered to it in Troy (*Il.* 24, 411 ff.)."

In connection with this theme, we may also note that Tyler, in commenting on Plato, *Apology*, 32 B, remarks that the *Ajax* and also the *Antigone* of Sophocles are prolonged to a considerable extent beyond the catastrophe, in order that the minds of the hearers may be relieved from the feeling of horror which was called forth by the thought of a deceased person remaining unburied.

A striking passage from the *Supplikes* of Euripides (524 ff.) illustrates this feeling. Here Theseus declares his determination to bury the bodies of the chiefs slain before Thebes, thereby preserving the spirits of the departed from dreadful sufferings, while at the same time observing the universal law of the Greeks:

νεκρούς δὲ τοὺς θανόντας, οὐ βλάπτων πόλιν
οὐδ' ἀνδροκμήτας προσφέρων ἀγωνίας,
θάψαι δικαίῳ, τὸν Πανελλήνων νόμον
σώζων. τί τούτων ἐστὶν οὐ καλῶς ἔχον;

Lysias strikes the same chord in his speech *Against Eratosthenes* (§96), when he endeavors to arouse the indignation of his hearers by reminding them that the Thirty Tyrants, in addition to their other crimes, deliberately deprived their victims of the customary burial, "thinking that their own power was too firmly established to be touched by the vengeance of Heaven." (Cf. *Id.* 13, 45; 19, 41.) Isocrates (14, 55) alludes to the importance of performing the funeral rites, and compares the suffering of the unburied dead with that of the living who have been deprived of their native country and of other blessings: *ἔστι δ' οὐκ ἴσον κακὸν οὐδ' ὅμοιον τοὺς τεθνεῶτας ταφῆς εἶργεσθαι καὶ τοὺς ζῶντας πατρίδος ἀποστερεῖσθαι καὶ τῶν ἄλλων ἀγαθῶν ἀπάντων, ἀλλὰ τὸ μὲν δεινότερον τοῖς κωλύουσιν ἢ τοῖς ἀτυχοῦσι, κ. τ. λ.* The terms of reprobation in which the Greek orators always refer to any neglect of burial honors clearly give evidence of the universal feeling (see *Lys.* 31, 21; *Dem.* 25, 54); and the very words used to designate the funeral rites—*τὰ δίκαια, τὰ νομιζόμενα, τὰ προσήκοντα*—unmistakably indicate the obligatory character of the funeral observances. We cannot doubt that it was a fearful doom in the eyes of the Greeks "to be cast out unburied," and that the prospect of such a fate would bring dismay even to the stout-hearted (see *Eur. Suppl.* 540-541).

A striking illustration of the Greek feeling for the dead is seen in the behavior of the Athenians after the battle of Arginusae. It will be remembered that on this occasion the

Outbreak of Feeling after Arginusae.	commanding Athenian generals, whether for the best of military reasons or not, failed to gather up for burial the bodies of the slain, and to rescue the imperilled crews of the disabled ships; that they were hastily condemned
--	--

to death by the enraged populace, and that six of them were actually executed, notwithstanding the decisive victory which they had won (see *Xen. Hellen.* 1, 6, 26 ff.; 1, 7, 4 ff.; *Plato, Apol.* 32 B; *Lys.* 12, 36). Perhaps no episode in Athenian history could better illustrate the intensity and reality of the feeling of the Greeks with respect to their obligations to the dead. In connection with this deplorable event, however, we must remember that the apparently unpardonable neglect of the generals to rescue the living may have enraged the Athe-

nians fully as much as the failure to collect the dead for burial (see Grote, *History of Greece*, Vol. 8, pp. 175 ff.); nevertheless, several commentators suppose that the offense had to do solely with the neglect to care for the dead (*e. g.* Stallbaum on Plato, *Apol.* 32 B), and Diodorus says nothing of the living (13, 100 ff.).

But merely to bury the dead and perform the funeral honors was not deemed sufficient to insure the welfare and tranquillity of the departed; the graves must also be regularly visited, offerings to the deceased must be made at appointed intervals, and the tombs must be scrupulously cared for. The sacredness of the latter obligation is well brought out in an impressive passage from the *Persae* of Aeschylus (402 ff.), wherein the Greeks are called upon to fight for the freedom of their country, their wives, their children, the temples of the gods, and the tombs of their forefathers. So, also, in a striking passage from the orator Lycurgus (*In Leocr.* §8), the speaker calls for vengeance upon the man who has abandoned his native country and forsaken the graves of his ancestors. Xenophon tells us (*Mem.* 2, 2, 13) that at the examination of the Athenian archons it was customary to inquire of the candidate whether he had neglected the graves of his forefathers. Many passages from Greek authors are found which emphasize not only this duty of caring for the tomb, but also the obligation to visit the grave at appointed intervals and make offerings in honor of the deceased (see Poll. 8, 146; Aristoph. *Lysist.* 611 ff.; Isae. 8, 39). Especially do we find in the works of the orators references to the annual offerings made at the tomb (see Isae. 1, 10; 2, §§10, 46; 6, §§51, 65; 7, §§30, 32; 9, §§7, 36); and apart from the orators we have abundant evidence of the observance of sacred rites at appointed intervals (see Hdt. 4, 26; Plato, *Laws*, 717 E; Stob. *Flor.* 44, 40). The tragic poets speak of libations offered at the tomb, consisting of milk, honey, water, wine, oil (Aesch. *Pers.* 607 ff.; Soph. *El.* 893 ff.; Eur. *Or.* 111 ff.; *I. T.* 156 ff.; *El.* 509 ff.). Plutarch tells us how, during this time, the Archon of Plataea sacrificed a bull over the funeral mound of the Greek heroes who fell in that famous battle, and

invited the dead ἐπὶ τὸ δείπνον καὶ τὴν αἵμακουρίαν (*Aristid.* 21). Lucian says that the souls of the departed are nourished by the smoke and incense of the sacrifices, and the wine offered in libation; and that the spirit of the dead would actually suffer with starvation if there were no friend or kinsman living to perform such offices (*Charon*, 22; *De Luctu*, 9). And however ironical and sceptical may be the spirit which characterizes Lucian, we cannot doubt that he is here actually reflecting Greek feeling.

Again, not only were the spirits of the departed believed to be constantly dependent upon the ministrations of the living, but it was deemed essential that friends, and, if possible, relatives of the dead, should perform these offices. The sensitiveness of the departed on this point is forcibly expressed in a passage from the *Ajax* of Sophocles (1393 ff.), wherein we observe that it was deemed a grievous thing for the dead if enemies approached his tomb:

σὲ δ', ὦ γεραίου σπέρμα Λαέρτου πατρός,
τάφου μὲν ὄκνῶ τοῦδ' ἐπιψάλλειν ἔαν,
μὴ τῷ θανόντι τοῦτο δυσχερὲς ποῶ.

And, conversely, the thought that the approach of a relative to the tomb was acceptable to the departed is illustrated in a striking passage from Isaeus (9, 4). Here the friends of the deceased Astyphilus bring to the tomb the speaker's father, who was a near kinsman of the departed, "knowing well that Astyphilus would welcome him." The same general thought finds expression in Isaeus 9, 36-37, where the judges are implored not to vote in such a manner that the bitter personal enemies of the deceased shall officiate at his tomb, rather than the lawful heir (cf. §19). Similarly, in Isaeus 1, 10, a certain Cleonymus is alarmed at the thought that his personal enemy may gain possession of his property and offer the customary sacrifices after his death; this, the speaker declares, would be terrible. Still another interesting passage from Isaeus, illustrating the same feeling, occurs in the second oration (§47). Here the speaker is emphasizing the thought that unless he, the adopted son of the deceased, be permitted to possess the

inheritance and honor the dead, the latter will actually suffer in Hades; and, addressing the judges, he passionately exclaims: "Grant aid to us and to him also who is with the dead; and do not allow him—I beseech you by the gods and the immortal spirits—to be treated with ignominy by these men." So, also, in the opening paragraph of the same oration, the speaker remarks upon the urgent need of aiding his deceased adoptive father, by performing the rites that devolve upon the heir. A similar passage is found in Pseudo-Demosthenes (43, 84), where the speaker cries out in behalf of the youthful claimant: *δέομαι δὲ καὶ ὑμῶν ὧ ἄνδρες δικασταὶ καὶ ἱκετεύω καὶ ἀντιβολῶ, μὴ περιίδητε μήτε τὸν παῖδα τούτου ὕβρισθέντα ὑπὸ τούτων, μήτε τοὺς προγόνους τοὺς τούτου ἔτι μᾶλλον καταφρονουμένους ἢ νῦν καταπεφρόνηται, . . . ἀλλὰ τοῖς τε νόμοις βοηθεῖτε καὶ τῶν τετελευτηκότων ἐπιμελείσθε, ὅπως μὴ ἐξηρημοθῇ αὐτῶν ὁ οἶκος.* And in another impressive passage from the same speech (§67), the speaker calls attention to the thought that Apollo of Delphi and Solon the lawgiver command relatives to perform rites in honor of the departed, on the appointed days (cf. *Ibid.* §§62, 66).

In the *Antigone* of Sophocles (450 ff.) occurs a most significant passage, showing that the Athenians looked upon the obligations to the dead as sent from Heaven.

Feeling for the Dead as seen in the "Antigone." The king has demanded of Antigone whether she knew of his edict forbidding that funeral rites be paid her brother. She replies:

"Yes, for it was not Zeus that published me that edict; not such are the laws set among men by the justice who dwells with the gods below; nor deemed I that thy decrees were of such force that a mortal could override the unwritten and unfailing statutes of Heaven. For their life is not of today nor yesterday, but from all time, and no man knows when they were first put forth." * So, also, in line 519, Antigone says, "Hades demands these rites." (Cf. Lys. 12, 96.)

Jebb, in the introduction of his *Antigone* (p. xxv), remarks that the heroine, who is the nearest of kin to the dead, "is fulfilling one of the most sacred and the most imperative duties known to Greek religion," in thus paying the funeral rites to her brother.

* The rendering is Jebb's.

The foregoing passages clearly give evidence of the belief of the Greeks that the dead should be cared for and propitiated, and that members of the family or relatives should perform the sacred offices, whenever possible. Furthermore, we observe that not only were the tranquillity and welfare of the dead supposed to depend upon the devotion of the living, but that the deceased person, according to the view of the
Influence of the Spirit of the Dead. Greeks, became immediately a protecting or avenging spirit, capable of giving or withholding favors. This idea is brought out in a passage from the *Republic* of Plato (427 B), wherein we are informed that Apollo of Delphi is to be regarded as the authoritative source of the laws pertaining to the graves of the departed, and also of the ceremonies which are to be observed in order that the inhabitants of the other world may be propitiated (cf. *Laws*, 759 C ff., 958 D). The same general thought is expressed still more forcibly in a passage from the *Alcestis* of Euripides (1000 ff.); here we observe that the heroine is scarcely dead before she is referred to by the chorus as a spiritual power, who may now be invoked and may grant favors to mortals. Especially noteworthy are lines 1003-1004:

νῦν δ' ἐστὶ μάκαιρα δαίμων.
 χαῖρ', ὦ πάτερ, εὖ δὲ δοίης.

Still another impressive passage, illustrating the same general thought, occurs at the opening of the *Choephori* of Aeschylus (vss. 4-5), in which Orestes, standing at his father's tomb, calls upon the dead to hear him.*

One cannot fail to be profoundly impressed by the wide

* In the *Frogs* of Aristophanes, after Aeschylus has been represented as quoting the passage above mentioned, and Euripides has criticised the repetition contained in κλύειν, ἀκοῦσαι, Dionysus remarks (vss. 1175-1176):

τεθνηκόσιν γὰρ ἔλεγεν, ὦ μοχθηρὲ σὺ,
 οἷς οὐδὲ τρις λέγοντες ἐξικνούμεθα.

Here Dionysus is alluding to the ancient custom of thrice bidding farewell to the dead (see *Od.* 9, 62 ff.), and the remark is not to be seriously taken as indicating any lack of faith, among the Athenians at large, in the institution of ancestor worship.

prevalence and the far-reaching influence, among the Greeks, of the worship of the dead, and particularly the worship of ancestors, dominating as it did the life of the individual and that of the family, and largely determining the relations of each to the State. For not only was the deified ancestor regarded as the protector of the individual and the family, but also—as I shall endeavor to show in the following chapter—as a protector of the State. Perrot admirably sets forth the far-reaching influence of ancestor worship upon Athenian life, when he says: “The sentiment which attaches to one another the individuals in the family, the families in the clan, the clans in the phratry, the phratries in the tribe, the tribes in the state, . . . is the belief in a common ancestor, the adoration of this first father, always conceived as real; it is the respect with which that member of each group, to whom comes the honor of succeeding to the deified ancestry, sees himself surrounded. . . . This is the principle which dominates all this hierarchy of associations; this is the keystone which upholds all these concentric arches” (*Droit Public d'Athènes*, pp. 132, 133).

We find in the ancestor worship of the Athenians—and especially when we consider in connection with this the obligations to the State—explanations of many of the phenomena of Attic life which otherwise would be difficult to understand. We observe, also, that the head of an Athenian family was not actuated by a purely religious impulse or by entirely unselfish or patriotic motives, when, as the officiating priest of the family, in constant communication with the unseen world, he performed so zealously and regularly, year after year, the designated rites in honor of the dead. For it is evident that he expected to receive material blessings from the spirit of the departed, so long as he himself continued to discharge the sacred obligations imposed upon him, as the family's head and representative. Moreover, it is clear that the Athenian believed that, after having faithfully served the ancestors during his life, he himself would be similarly honored by his heir after his own death, and that he regarded such homage as indispensable to his own future happiness (Plato, *Hipp. Mai.* 291 D E). When we bear in mind this intense personal feeling of indebtedness to ancestors, obligations to the State and to

posterity, and expectation of benefits to be received after death at the hands of posterity, we more readily appreciate the importance, to the Athenian, of ancestor worship, and the solicitude everywhere manifested for an heir who should continue the family cult, perpetuate the family line, and become the father's representative in discharging the obligations to the State. The numerous references to ancestor worship which we encounter in the literature of the Greeks are, therefore, not surprising.*

Closely associated with the thought of devotion to the dead was the feeling of dread lest one should die and leave behind an inheritance without an heir. Such a contingency was regarded by the Athenian with "Fear of a Desolate Heritage." horror; this was equivalent—as Perrot expresses it—to "dying a double death" (*L'Eloquence Politique et Judiciaire à Athènes*, p. 364); and

* Ancestor worship is, of course, abundantly attested by sepulchral monuments (see Campbell, *Religion in Greek Literature*, pp. 228 ff.). It was evidently an institution of extreme antiquity, and widely prevalent, not only among the Greeks, but among all, or nearly all ancient peoples of historical importance. Closely associated with this cult was hero worship, which probably originated in the worship of ancestors (see Campbell, *op. cit.* pp. 67, 130, 226). Of hero worship Campbell says: "This tendency remained a living power in Greece far into historical times; we know that Hagnon and Brasidas were worshipped successively at Amphiopolis, and the power of the local hero was the object of such vivid belief that the presence even of his image with the army was regarded as conducive to victory. . . . The hero present at his tomb was supposed to have all the human feelings of a living citizen. The vicissitudes of war, alliance, and colonization affected the fortunes of heroes as well as of living men. There were many tombs of Oedipus in many parts of Greece; for the Athenian, he was buried at Colonus; for the Boeotian, at Potniae; for the Corinthian, at Sicyon. . . . Orestes, though not a Dorian, was a powerful factor in the Spartan State, and not until his bones had been laid within Spartan ground, and a temple raised over them, could the Lacedaemonians be sure of supremacy in the Peloponnesus" (*Ibid.* p. 132). Elsewhere, Campbell remarks that in certain parts of Greece "wicked 'heroes' or disembodied spirits were known to rise out of their graves at night and devastate a region until they were propitiated or exorcised." . . . Our authority adds: "The Attic heroes were of the nobler order, going forth in battle in great emergencies to defend their people, and extending protection to the men of their tribe so long as they were fed with sacrifices at stated times" (*Ibid.* p. 227).

many passages from Greek authors clearly indicate the attitude of the Athenians in this regard. Thus, Isaeus (7, 30) speaks of the precautions which all men take to insure the perpetuity of their line, "in order that they may not leave their homes destitute of heirs." (Cf. Isae. 6, 5.) Still stronger language is seen in a passage from Isaeus' 7th oration (§31), where the orator speaks of a house without an heir as one that had been "left desolate in a disgraceful . . . and dreadful manner." In the 2d oration of Isaeus (§§10 ff.), a certain Menecles is concerned over his childlessness, and adopts a son, "to care for him in his old age, to bury him when dead, and ever afterwards to perform in his honor the customary rites." (Cf. *Ibid.* §20; [Dem.] 43, §§12, 84; 44, 43.) The same feeling is found also in the works of the poets, wherein occur so frequently the prayers of the pious for children to care for them in their old age and to bury them when dead (Eur. *Med.* 1032 ff.; *Suppl.* 168 ff.; *Troad.* 380 ff.; *Alc.* 663-665; cf. Lys. 13, 45).

The universal prevalence of the custom of adoption, among "both Greeks and barbarians" (Isae. 2, 24), illustrates further, in a striking and practical manner, the solicitude of the Athenians as to the importance of maintaining the family line and the ancestor worship. (Cf. *Id.* 2, 20; 7, 14.)

Again, the undercurrent of religious feeling is perceived when one notes, in detail, the duties of the heir. We read in Isaeus 7, 30: "All men who are about to die take forethought for themselves, . . . that there may be some one who shall offer sacrifices to them and perform all the customary rites." We learn from Isaeus 9, 30, that the son was

Religious Duties of the Heir.

associated with the father in the performance of religious ceremonies during life; and it appears from many passages that it was the solemn duty and privilege of the heir to visit the family altars and offer sacrifices to the dead (Isae. 6, 51; 9, §§7, 13). I have already called attention to an interesting passage from the *Memorabilia* of Xenophon (2, 2, 13), wherein we learn that children were required by law to adorn the tombs of their deceased parents. We are informed that the most dreadful wrongs inflicted by a father could not release a son from the

sacred duty of performing the appropriate rites in honor of the dead (Aeschin. 1, §§13, 14).^{*} According to the law relating to the ill treatment of parents or grandparents—ὁ περὶ τῆς κακώσεως νόμος—(Isae. 8, 32; Lys. 13, 91; Plato, *Laws*, 931 A D E), it was apparently deemed scarcely less important that the heir should perform the due rites in honor of the deceased, than that he should care for the parents and grandparents, during the lives of the latter (see Lys. 13, 91; 31, 21; Dem. 24, 107).

That it was the peculiar privilege of the heir to perform these rites, appears also from the fact that the orators sometimes dwell upon the performance or non-performance of such ceremonies as arguments for the validity or non-validity of a contestant's claim to an inheritance. An illustration of this is found in Isaeus' 8th oration, wherein a certain Diocles, aided by a confederate, undertakes to usurp the privilege of the speaker, who is the grandson of the deceased, to honor the dead (§§38, 39),—a proceeding which the speaker characterizes as a "sacrilegious crime"—ἱεροσυλίαν (§39). The speaker urges that his participation in the funeral ceremonies of the deceased shows clearly that he is the lawful heir (§§24 ff.; cf. *Or.* 9, §§4, 32). Furthermore, he shows that during the lifetime of the deceased, he and his brother—the grandsons—were the sole assistants of the grandfather in all sacrifices and sacred rites (§§15 ff.)—facts most significant and conclusive. And, finally, the speaker shows that, after the grandfather's death, his right to bury the grandfather, with due ceremonies, was undisputed even by the wife of the deceased (§§21, 22).

*The passage from the *Alcestis* of Euripides (662 ff.), wherein Admetus declares that he will never render to his father the due burial honors, cannot be taken as indicating that the Athenians ever tolerated such an attitude on the part of a son. It is true that Euripides sometimes transfers to the heroic age the customs and feeling of his own times (*e. g.* cf. *Med.* 230 ff.). But the sentiment expressed by Admetus in the passage referred to is thoroughly un-Greek (see vss. 683-684). The threat of Admetus is that of a contemptible despot, who is beside himself with rage, grief, and disappointment. Euripides is here sacrificing truth and propriety in order to call forth emotion—in order to awaken in his audience a feeling of horror over the awfulness of the fate awaiting Pheres—the fate of losing the customary funeral honors at the hands of his son.

Thus the prominence of the religious feeling in the family relations and in the life of the individual is very apparent. We shall find, as we proceed with our investigations, that the inheritance rights and the religious obligations were inseparably connected; and it will become increasingly evident that the life of the Athenian citizen was not only closely associated with the religious system and the inheritance institutions, but was actually moulded and dominated by both.

CHAPTER III.

THE ATTITUDE OF THE STATE TOWARD THE FAMILY AND THE RELIGIOUS CULT.

In the preceding chapter I have endeavored briefly to set forth the strong religious feeling which dominated the life of the Athenian citizen and powerfully influenced the relations of the family. But apart from the point of view of the individual and the family, it is to be remembered that the perpetuity of

Motives of the State in encouraging Religious Observances.

the family, the continued observance of the domestic cult, and the maintenance of the ancestral possessions, were matters of great concern also for the State. Perrot (*L'Éloquence Politique et Judiciaire à Athènes*, p. 364) remarks: "It was a dis-

astrous thing for the city that one of those altars upon which every year for centuries the hereditary sacrifices had been offered, should suddenly be seen to be neglected and absolutely abandoned. All those legendary heroes, those glorious ancestors, watched constantly over their descendants, and in return for the homage which they received, protected still this Athens, for which they had formerly lived, fought, and suffered. With every family that became extinct, the city was losing a protector in allowing the domestic cult to perish with it. If it were often so, *the gods of the lower world* would finally become enraged against the city which they had so long favored." (Cf. Meier & Schömann, *Der attische Process*, p. 601).

In this connection, it is interesting to note a passage from Isaeus (7, 30), in which the speaker, after alluding to the obligation to the dead, and after remarking that it was customary for childless men to adopt a son, adds: "And not only do men take cognizance of this individually, but the State publically recognizes these obligations. For by law it enjoins upon the archon the supervision of the homes, in order that they may not be left destitute of heirs." The law referred to by Isaeus

is cited by the speaker in Pseudo-Demosthenes 43, 75: 'Ο ἀρχων ἐπιμελείσθω τῶν ὀρφανῶν καὶ τῶν ἐπικλήρων καὶ τῶν οἴκων τῶν ἐξεργημουμένων . . . τούτων ἐπιμελείσθω καὶ μὴ ἑάτω ὑβρίζειν μηδένα περὶ τούτους. (Cf. Ἀθ. Πολ. 56, 7.)

With the observation of the speaker in Isaeus may be compared a passage from the *Antigone* of Sophocles (vss. 748-749), in which the king reproaches his son

Religious Feeling as seen in the "Antigone." Haemon because the latter has taken the part of Antigone. Creon says with reference to Antigone, who has just been caught in the act of paying funeral rites to her brother, "All thy words . . . plead for that girl." Haemon sternly replies in behalf of his betrothed, "And for thee, and for me, and for the gods below."

Closely in accord also with Perrot's utterances, above cited, is the passage in the *Antigone* beginning with line 988—I quote from Jebb's summary as contained in his introduction to the play (pp. xiv-xv): "As the choral strains cease, the blind and aged prophet is led in by a boy. He comes with an urgent warning for the king. The gods are wroth with Thebes; they will no longer give their prophet any sign by the voice of birds or through the omens of sacrifice (see vss. 1015 ff.). The king is himself the cause, by his edict forbidding the burial of the dead. Carrion creatures have defiled the altars of Thebes with the taint of the unburied dead. Let burial rites at once be paid to Polyneices."

Professor Jebb remarks further: "The king's duty to the dead and to the gods below was now also a duty toward the polluted state, from which his impiety had alienated the gods above" (Introd. *loc. cit.*). Nothing, per-

The State affected by the Neglect of Religious Rites. haps, could more strikingly illustrate the Greek feeling for the dead than these passages from the great tragedy. Especially noteworthy and solemn is the passage beginning with line 1064, in which the aged seer addresses the obstinate Creon as follows: "Then know thou—aye, know it well—that thou shalt not live through many more courses of the sun's swift chariot, ere one begotten of thine own loins shall have been given by thee, a corpse for corpses; be-

cause thou hast thrust children of the sunlight to the shades, and ruthlessly lodged a living soul in the grave; but keepest in this world one who belongs to the gods infernal, a corpse unburied, unhonored, all unhallowed. In such thou hast no part, nor have the gods above, but this is a violence done to them by thee. Therefore, the avenging destroyers lie in wait for thee, the Furies of Hades and of the gods, that thou mayest be taken in these same ills." *

It is to be observed that the immediate cause of the wrath of the gods above—the pure *οὐράνιοι θεοί*—was not merely the pollution of the altars by the carrion creatures, but the offence committed against themselves by Creon in keeping a *μίασμα*—the unburied body of Polyneices—in their presence (see Jebb's note on line 1072). We thus find in this great tragedy, in which the conflict between divine law and human will is so powerfully set forth, a clear proof of the accuracy of Perrot's declaration that neglect of the burial rites and of the ancestral altars would enrage the gods of the lower world; we also observe that the king's refusal to permit a member of the family to honor the dead was not only bringing terrible afflictions upon the king's own house, but was actually calling down the wrath of the heavenly gods upon the State. It is, therefore, perfectly clear that the Athenians—theoretically, at least—regarded their own prosperity and the security of their fatherland as closely bound up with their ancestor worship and their religious cult; in other words, they felt that neglect to honor the dead and care for the ancestral altars was altogether likely to result in anger and estrangement on the part of the gods, and in disaster for the individual and the State.

Apart from religious considerations, the State also had strong political motives for insuring the perpetuity of the family and the preservation of the ancestral possessions. We must bear in mind that in ancient republics the number of citizens was not large, and that in particular the heads of rich and influential families, who could perform important public services, were far from numerous.

**Political Motives
of the State
for preventing
the Alienation
of Inheritances.**

* The rendering is Jebb's.

We must also remember that every rich and distinguished Athenian house deemed it a duty and an honor to discharge creditably the public obligations imposed upon it by fortune; and that sons would exert themselves to the utmost to equal or surpass their fathers in equipping and providing for the training of a tragic chorus, for example, or in performing the duties of trierarch. Now if the family became extinct, and the inheritance passed into the hands of some stranger, the latter, neither impelled by family pride nor influenced by hereditary associations, could usually find some pretext for contributing less liberally to the expenses of the government and the glory of the State. This is forcibly brought out in Isaeus' 6th oration (§§38, 60-61). Here the speaker, after having dwelt upon the distinguished public services of members of his house, promises to use his means for the glorification of the State, just as his family had done from time immemorial; and he calls attention to the fact that, if the inheritance passes out of the family, the State can no longer expect to receive any such benefits; that, in fact, much of the property has already disappeared, to the detriment of the State. So, too, in the 7th speech of Isaeus (§§32, 39 ff.), the speaker cries out against his adversaries, who have brought to naught the house that had been conspicuous for its public services; and he contrasts his adversaries' conduct with his own praiseworthy actions. In the 5th oration of Isaeus (see §§35, ff., §§44 ff.), Dicaeogenes' shameful neglect of his duties to the State is strikingly contrasted with the splendid achievements of the speakers' ancestors, and their liberal contributions to the State (cf. *Id.* 4, 27). In Isaeus' 11th oration (§§47, 50), a certain Theopompus indignantly repels the thought that he has disposed of any of his property in order to escape public contributions.

Thus the religious and political motives of the State for guarding the inheritance and perpetuating the family are clearly seen. And in view of the existence of such motives, it is not strange that Athens watched so tenderly and faithfully over the ancestral mansion and the family altar. The potency of the influence exerted upon the individual and the family by the religious feeling, combined with the feeling of obligation to the State, can hardly be overestimated. We shall observe

that this religious and patriotic feeling permeated the entire inheritance system; that it not only explains, in large measure, certain of the phenomena to which we have adverted,—as, for instance, the wide prevalence of the institution of adoption,—but that it enters into the marriage relations and becomes a determining motive there; that it profoundly influences the relations between parents and children; that it explains, in part, the dependent position of the Athenian woman; that, in a word, it overshadows and dominates the life of the individual and the family, and determines the relation of each to the State.

CHAPTER IV.

THE POSITION OF ATHENIAN WOMEN DURING THE PERIOD OF THE ATTIC ORATORS.

The social and legal status of Athenian women during the times of the orators constitutes a problem which demands a brief consideration at this point, inasmuch as family relations and social conditions in general are so largely determined by woman's position in the home and the community.

At the outset we observe marked differences of opinion among scholars with regard to the social position of the women of Athens during the period mentioned. Many authorities maintain that the Athenian women during the Age of Pericles, and later, were regarded and treated as altogether inferior beings, incapable of asserting themselves or of exerting any influence for good in the home or the community,—relegated, in short, to a position very little removed from that of abject servitude. On the other hand, some writers have held that the women of the period referred to lived comparatively happy and independent lives. Whether we give adherence to either of these extreme views, or whether—as seems more reasonable—we assume an intermediate position, still we are com-

The High Position of Homeric Women.

pelled to admit that the Athenian women during the period of the orators held a place far inferior to the dignified, honored, and even commanding position occupied by the women of the Homeric age.* It is, of course, beyond the province of this discussion to speak of social

* Jebb says of the women of the Homeric age: "Women have a higher position and more freedom than in the later historical age of Greece. Polygamy is unknown, . . . and there are few exceptions to the sanctity of marriage. The home life of King Alcinous and Queen Arête in the *Odyssey* is like a modern picture of fireside happiness, and no image of girlhood more noble or charming than Nausicaa can be found in poetry" (*Greek Literature*, pp. 28-29; cf. Becker, *Charicles*, pp. 462 ff.; Mahaffy, *Social Life in Greece*, pp. 52 ff., 146 ff.). We must bear in mind, however, that in Homer we are listening to a poet of aristocratic tastes, who is addressing himself exclusively to aristocrats, and who either wholly ignores the common people, or treats them in a disdainful manner, purposely avoiding themes of common

conditions prevailing in the earlier epoch, otherwise than to point a contrast between the two periods. But the contrast is exceedingly striking; and it is truly amazing that during the culminating period of their national greatness the Athenians should have assigned to woman a position characterized by Grote as one of "almost oriental recluseness" (*History of Greece*, Vol. 6, p. 100)—a position which seems to mark a distinct retrogression from the standards and ideals of the earlier and more barbaric age. Nor is it easy to account for this remarkable change, since we possess no extended nor accurate account of the events which occurred during the intervening centuries; the fragmentary writings of the lyric age which have come down to us afford only occasional glimpses of the social conditions prevailing during the interval. Possibly the example of Sparta, and the natural antipathy of the Athenians toward Spartan institutions, influenced the men of Athens somewhat in their attitude toward the other sex; the boldness of the Spartan women may have repelled them, and prompted them

**Reasons assigned
for the Athenian
Woman's Unen-
viable Position.**

to resort to extreme measures in dealing with the women of their own state. Moreover, the operation of the inheritance laws, and particularly the obligations of the head of the family to religion and to the State, may largely explain the

life, and all such topics as would be distasteful to his princely hearers. This is particularly true of the highly idealized sketches of the court life of King Alcinous; for the Phaeacians, it will be remembered, were on terms of intimacy with the gods. While Hesiod deals with harder and humbler phases of life, he does not enlighten us, to any extent, as to social conditions. Undoubtedly life in the Homeric age had other aspects, of which we know practically nothing. Jebb, in speaking of the social position of Homeric women, remarks: "In comparing the Homeric place of women with her apparently lower place in historical Greece, two things should be borne in mind: (1) The only Homeric women of whom we hear much are the wives of chiefs or princes, who share the position of their husbands. The women of whom we hear most from the Attic writers belong to relatively poor households; their social sphere is necessarily more confined. (2) The intellectual progress made between 800 and 500 B. C. was for the men, and only in exceptional cases for the women. The Homeric woman of 950 B. C. was probably a better companion for her husband than the Attic woman of 450 B. C." (*Introduction to Homer*, p. 63, n. 2).

peculiarly dependent position of the Athenian woman. For, since these obligations were paramount, and since the woman was disqualified to serve the family and the gods by performing the religious duties inherited by the heir, as well as incapable of discharging the arduous and expensive public services that devolved upon the head of an influential family,—therefore, her position in the community and in the family was necessarily a subordinate one.*

Gardner comments upon the inferior condition of women in historical Greece, remarking that "women were of least account in the greatest ages of Greece, in those days when the public life was most vigorous and Greece outwardly most flourishing." "And the reason, or at least one chief reason," Gardner observes, "is not far to seek, that in the archaic times of Greece and the times of decay, the men cultivated and found their pleasure in private and domestic life; in the great age of Greece the life of politics had driven quite into the background that of the home. The seclusion of women, like slavery, was part of the price paid by Greece, and especially by Athens, for a magnificent burst of public splendor" (*Manual of Greek Antiquities*, p. 340).

Mahaffy suggests that the breaking down of the power and influence of the old aristocracy, and the increasing importance of the democracy, had the effect of changing the social position of women. He says: "I have shown before that, in Homer's day, the wives and daughters of the chiefs were respected and influential because they were attached to the center of power, because they influenced the king more than free men did, and because they belonged to an exclusive caste society which despised all beyond its pale. The same thing holds good, though perhaps in a lesser degree, in the aristocratic

*Doubtless the Homeric woman would have been as effectually barred from performing religious rites in behalf of the family as the Athenian woman was; moreover, ancestor worship, in some form or other, undoubtedly existed in the Homeric age (see Campbell, *Religion in Greek Literature*, pp. 67-68; 130-131). But the State, in Homer's time, was, of course, practically non-existent; *θεμεις*, not *νόμος*, was dominant; and it is inconceivable that any elaborate inheritance system, with its attendant obligations, such as Isaeus knew, could have existed in Homer's day.

days of historical Greece. . . . Accordingly, when the power passed from the special class of the nobles the consideration felt for all their *entourage* would also pass away. A common man, with an actual vote, would become of more importance than an Alcmaeonid lady, who might possibly of old have swayed her ruling husband" (*Social Life in Greece*, p. 146). Mahaffy also thinks that the influence of Ionia and the East upon Attica, at the time when Athenian commerce had developed, and the relations of the various members of the Delian Confederacy had become closer, probably resulted in lower ideals concerning woman's position and influence (*Ibid.* pp. 147 ff.).

However all this may be, it is undeniable that woman's position during the age of the orators was most unenviable. For it

is evident that the Athenians did not
Inferior Position of Athenian Women. merely desire the women of their commonwealth to refrain from overstepping the bounds of feminine reserve and

propriety, but also to defer in practically all matters to the wishes of their husbands, fathers, or guardians, and accept without questioning a position distinctly subordinate to the men, both intellectually and socially. We shall, accordingly, observe that the life of the Athenian woman was not only exceedingly circumscribed and isolated, but that she was actually treated throughout her life as a minor, and under constant tutelage, being subject, at various times, to the authority of her father, brother, grandfather, husband, son, or guardian; that she had practically no authority, except in the sphere of domestic economy, very limited means for intellectual or social culture, and no opportunities to expend her energy otherwise than in occupations which were deemed purely feminine. We shall also observe that the majority of Greek writers speak of Athenian women in terms which are distinctly uncomplimentary to her sex.

Considering first the position of the Athenian girl in the home and in society, we observe at the outset that even an education worthy of the name was denied

Meagre Education of Athenian Girls. her. For nowhere in the works of Greek authors do we read of educational institutions for girls, or even of private teach-

ers at home,—except, indeed, for some slight instruction, chiefly in matters of domestic economy, given by the mother and the nurse (see Becker, *Charicles*, p. 465). In a passage from the *Phormio* of Terence, it is true, mention is made of a certain slave girl—a musician—who attended a school (vss. 85-86); but we also know that at Athens girls of the musician class were not usually considered to be above reproach (Aeschin. I, §§42, 75). Nevertheless, a certain amount of education must have been received by many women; for Plato speaks of educated women who attend the performance of tragedies at the theatre (*Laws*, 658 D), and the passage can hardly be explained away. We know, also, that a certain knowledge of music and dancing was imparted to many girls, and especially to girls of noble birth, to enable them to participate in great religious festivals; this is illustrated by a passage from the *Lysistrata* of Aristophanes (641 ff.), wherein the representative of the chorus of women mentions several important religious celebrations in which she had taken conspicuous parts, while yet a mere child.

With the exception, however, of such gatherings as these,—and an occasional funeral, perhaps ([Dem.] 43, 62), or a wedding festival (Plato, *Laws*, 775 A; Eur. *Iph. in Aul.* 722; Lucian, *Conv.* 8),—it is evident that Athenian girls of good families lived a life of strict seclusion, and that their opportunities to become acquainted with those of the opposite sex were exceedingly rare. Very pathetic is a passage from Plato (*Laws*, 781 C), in which he speaks of women as a class “accustomed to live in retirement and obscurity.” In Xenophon’s *Oeconomicus*, the young husband Ischomachus tells Socrates how he had married an exceedingly youthful wife, who had been carefully brought up “to see, and

The Secluded Life of Athenian Girls. to hear, and to inquire, as little as possible” (7, 5; cf. 3, 13). Very striking and pathetic also is the language used by

Ischomachus of the process of training and of becoming acquainted with his shy young wife (*Ibid.* 7, §§9, 10); he speaks of her having become “accustomed to his hand,” and “tamed,” until she had reached the point at which she would readily converse with him. Here, it will be observed, the adjective *χειροίθης*,

and also the verb ἐπετιθάσεντο (§10), would naturally be applied to the taming of some wild young animal.

It would appear, indeed, that Athenian girls before marriage were not only rigidly required to remain for days and weeks at a time within their own apartments and in their own court, but that they were sometimes actually kept under lock and key; Callimachus, for example, speaks of them as κατὰκλείστοι (*Frag.* 118); and, in the same strain, Phocylides says (vss. 203-204):

Παρθενικὴν δὲ φύλασσε πολυκλείστοις θαλάμοισι,
μηδέ μιν ἄχρι γάμων πρὸ δόμων ὠφθῆναι εὔσης.

(Cf. *Soph. Oed. Col.* 342-343.) Even the opportunities of Athenian girls to become acquainted with their relatives and with the masculine members of their own families seem to have been restricted; for we must remember that the occupations of the Athenian men kept them away from home, for the most part (*Xen. Oecon.* 7, 30; *Mem.* 1, 1, 10; *Stob. Tit.* 74, 61; *Eur. Med.* 244-246); and even when they returned to the home, they seem to have remained chiefly in their own apartments (see Becker, *Charicles*, p. 465; cf. *Lys.* 1, 22; 3, 6). Herodotus sums up the general situation in the expression κεχωρίσθαι ἄνδρας γυναικῶν (5, 18), which seems to have been regarded as an established maxim (cf. Plato, *Laws*, 806 D E). Euripides is responsible for the assertion that silence and discretion are the fairest virtues of women, and that their duty is to remain quietly within the home (*Heracl.* 476-477; cf. *Xen. Oecon.* 7, 30). In Plato's *Republic*, the life of a tyrant, who is virtually a prisoner, is compared with the secluded life of a woman (579 B). And Thucydides represents Pericles as uttering the following significant words in his famous funeral oration: "To a woman not to show more weakness than is natural to her sex is a great glory, and not to be talked about for good or for evil among men" (2, 45, 2, Jowett's translation). These words of Pericles, to be sure, are addressed to the widows of the fallen Athenian soldiers; but it is obvious that they would be applicable to the unmarried girls of Athens as well.

Such, then, in brief, was the position of the Athenian girl before marriage. And although, after marriage, a somewhat larger liberty of action was granted her, still we find that her life was exceedingly circumscribed in every way; that she was

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directly under her husband's authority, seldom permitted to leave the home, restricted to a narrow circle of occupations, and forced to find her chief companionship in the society of her children and her female slaves; in a word, we find the Athenian married woman occupying a position distinctly subordinate to that of the men, both intellectually and socially. Her occupations—briefly stated—now include the care of the home and of the children, devotion to her husband, and the supervision of the slaves. Plato sums up her duties in the words *θεραπεία*, *ταμεία*, and *παιδοτροφία* (*Laws*, 806 A; cf. Aristoph. *Lysist.* 17 ff.); Aristophanes gives us to understand that she has charge of the household money, and manages the expenses of the establishment (*Eccles.* 211, 212; *Lysist.* 493-495); and Xenophon names as necessary accomplishments on her part the making of clothing and the art of cookery (*Oecon.* 7, 21 ff.). She is no longer restricted to the women's apartments, it is true, but she is not expected to pass beyond the street door, except under unusual circumstances; thus, we read in a fragment from Menander (p. 87, Mein.):

πέρας γὰρ αὔλιος θύρα
ἐλευθέρα γυναικὶ νενόμιστ' οἰκίας.

She is dependent upon her husband in practically all matters (Xen. *Oecon.* 7, 14). Her imperative duties, as viewed by the Greek writers, are to remain constantly at home — τὸ οἰκορεῖν — in the performance of her household tasks, and to be discreet — τὸ σωφρονεῖν. Thus, we read in Stobaeus (*Tit.* 74, 61) a passage taken from the treatise *περὶ γυναικὸς σωφροσύνης* of Phintys the Pythagorean, in which the speaker alludes to the political and military duties of the man, and adds: "But the particular duties of a woman are to stay at home and remain within . . . and to serve her husband." (Cf. Xen. *Oecon.* 7, §§14, 22; Eur. *Troad.* 647 ff.) The peasant-husband of Electra in the well-known play of Euripides (vss. 341 ff.) is astonished to see his wife conversing at the gate with two strange men, and he remarks (vss. 343-344), γυναικί τοι αἰσχρὸν μετ' ἀνδρῶν εἶσθαι νεανίων. Aristophanes tells us distinctly that it is difficult for women to leave the house—χαλεπή τοι γυναικῶν ἔξοδος

(*Lysist.* 16) ; also that husbands are furious if their wives go from the home unknown to themselves (*Thesm.* 792 ff.). Were we inclined to question the accuracy of these observations, we read in Plutarch (*Sol.* 21) of a law of Solon relative to the restrictions attending upon the movements of women: Ἐπέστησε δὲ καὶ ταῖς ἐξόδοις τῶν γυναικῶν καὶ τοῖς πένθεσι καὶ ταῖς ἐορταῖς νόμον ἀπείργοντα τὸ ἄτακτον καὶ ἀκόλαστον· μῆτε νύκτωρ πορεύεσθαι πλὴν ἀμάξῃ κομιζομένην, λύχρου προφαίνοντος. We also learn that it was deemed essential for a respectable woman, when leaving the house on any necessary errand, to be accompanied by an attendant (*Theophr. Char.* 22 ; *Lucian, Imag.* 2).

When we reflect upon the monotonous and isolated life of the Athenian woman, and the numerous restrictions which hedged her about, we can scarcely wonder that the tortoise was selected as the most appropriate symbol of her existence ; for it was actually upon the representation of a tortoise that the famous Aphrodite Urania of Phidias was supported. Plutarch says : Τῷ δὲ τῆς Ἀθηνᾶς (εἰκάσματι) τὸν δράκοντα Φειδίας παρέθηκε, τῷ δὲ τῆς Ἀφροδίτης ἐν Ἥλιδι χελώνην, ὡς τὰς μὲν παρθένους φυλακῆς δεομένας, ταῖς δὲ γαμεταῖς οἰκουρίαν καὶ σιωπὴν πρέπουσαν (*De Iside et Osir.* 76 ; cf. *Pausan.* 6, 25, 2).

A picturesque passage, clearly giving evidence of the drudgery of the Athenian woman's life, and her utter lack of originality—to say nothing of a lamentable lack of character—is found in the *Ecclesiazusae* of Aristophanes (215 ff.). And the intolerant attitude of the Athenian men, and their resentment toward their wives when the latter seemed in the least inclined to step outside of their own appointed sphere, is cleverly brought out by Aristophanes in the *Lysistrata* (507 ff.). Both these passages, to be sure, are to be regarded largely in the light of burlesques ; and not only here, but in very many instances, it is evident that Aristophanes is deliberately exaggerating and distorting for the sake of comic effect. We should not be justified, therefore, in taking such passages as these literally ; nor, when we read of certain extraordinary precautions taken by the men to confine the women within their allotted apartments (*Thesm.* 414 ff.), should we be justified in concluding that husbands habitually kept their wives under lock and key, and even placed their seals on the door of the

gynaeconitis, for the sake of additional security. Nevertheless, underneath all these humorous exaggerations and distortions there is evidently an element of truth; and even after making all due allowances for Aristophanic coarseness and uncontrollable humor, our impressions with regard to the general situation are distinctly painful.

An interesting and vivid picture of a small Athenian household is presented to us by Lysias (1, §§5-28), and illustrates in particular the position of a married woman of the lower class. The speaker briefly describes the household arrangements, explaining that his house consists of two stories, of which the upper story has been occupied by himself, and the lower by his wife and child (§§9, 10). He goes on to state that, at first, his wife was entirely satisfactory as a housekeeper; that he "watched her as far as possible, and gave all reasonable attention to the subject" (§§6-8);* that at length, on the occasion of her mother's funeral, she for once left the house; for once she was free from her husband's supervision, and on this occasion met the man who was responsible for her subsequent downfall.

As illustrating still further the secluded life of the married woman, Isaeus tells us (3, 14) that "married women do not go with their husbands to dinners, nor do they deem it proper to dine in company with the husbands of other women." The woman, in short, who went to a dinner with men was likely to be regarded as a *étaíra*. Thus, in Pseudo-Demosthenes (59, 24) we read, *συνέπινε καὶ συνεδείπνει ἐναντίον πολλῶν Νέαιρα αὐτῇ ὡς ἂν étaíra οὖσα*. (Cf. *Ibid.* §§33, 48.) It is evident that married women did not even assist their husbands in entertaining friends at their own homes; thus, in Lysias 1, 22, Euphiletus, unassisted by his wife, entertains Sostratus at dinner in the upper part of the house. In Lysias 3, 6, the speaker remarks that his sister and niece live a life of such strict propriety "that they are ashamed to be seen even by their relatives." We are also told that it was an infringement of etiquette for a man even to enter the house of a married friend or relative, when the master was away ([Dem.] 47, 60).

It must be acknowledged that, in certain directions, the men

*The rendering in Jebb's (*Attic Orators*, Vol. 1, p. 272).

of Athens were exceedingly particular in their behavior toward women, not merely in such a matter of etiquette as that to which reference has just been made, but also in the avoidance of the use of objectionable language, for example, in the presence of women (Becker, *Charicles*, pp. 472-473; Dem. 21, 79; Ter. *Heaut.* 1041-1042). But all this was a very poor compensation for the actual selfishness, lack of appreciation, and—from our point of view—downright cruelty, which so frequently characterized the attitude of the men of Athens toward the women of their state.

Cornelius Nepos draws an interesting comparison between Greek and Roman customs as regards the freedom of matrons. He says (*Praef.* 6, 7): *Quem enim Romanorum pudet uxorem ducere in convivium? Aut cuius non materfamilias primum locum tenet aedium atque in celebritate versatur? Quod multo fit aliter in Graecia. Nam neque in convivium adhibetur nisi propinquorum, neque sedet nisi in interiore parte aedium, quae gynaeconitis appellatur; quo nemo accidit nisi propinqua cognatione coniunctus.* (Cf. Cic. *In Verr.* 2, 1, 26, 66.)

Lycurgus (*In Leocr.* §§39-40) gives us a vivid account of the behavior of the Athenian women after the news of the defeat at Chaeroneia had reached Athens. We are informed that even the intense anxiety of the women for tidings of their loved ones could scarcely overcome their habitual reserve and habits of seclusion, and that they did not pass beyond the doors of their homes; and the speaker actually characterizes their appearance in their doorways as a sight "unworthy of themselves and their city."

Additional evidence of the restrictions imposed upon Athenian women is found in the existence of magistrates, known as *γυναικονόμοι*, who were expected to maintain orderly behavior among the women (see Menand. *Frag.* 272, p. 78, Kock; Arist. *Pol.* 6 (4), 15, 13; 7 (6), 8, 23). There can be no doubt of the existence at Athens of such officials, although it is questionable whether they were found there during Solon's time (see Poll. 8, 112).

As illustrative of the woman's legal incapacity under the Athenian system, we may cite a passage from Isaeus (10, 10),

to the effect that neither a woman nor an infant was allowed to conclude a bargain of importance:

Legal Incapacity of Athenian Women. ὁ γὰρ νόμος διαρρήδην κωλεύει παιδὶ μὴ ἐξεῖναι συμβάλλειν μηδὲ γυναικὶ πέρα μεδύμνου κριθῶν (cf. Schol. Aristoph. *Eccles.* 1024).

Dion Chrysostomus (74, 9) also cites the law, and explains it on the ground of weakness of judgment on the part of the women and the infant—διὰ τὸ τῆς γνώμης ἀσθενές. In a passage from Pseudo-Demosthenes (46, 14), the speaker cites a law providing that a man without sons can will his property as he chooses, "unless his mind is impaired by lunacy . . . or disease, or unless he is under the influence of a woman." (Cf. [Dem.] 48, 56.)

We are not, however, to conclude that absolute dependence and strict seclusion was the invariable rule with Athenian women. Older women, for example, apparently enjoyed a larger liberty of action (see Stob. *Tit.* 74, 33); and younger women of the lower classes, having no slaves, were sometimes obliged to venture from the home in the performance of their duties, as in drawing water (Aristoph. *Lysist.* 327; Pausan. 4, 20, 3; 10, 18, 2). Market women, however, notwithstanding the necessities of their calling, were apparently placed in the same category as the *hetaerae* (see Becker, *Charicles*, p. 283). Women sometimes left the house in order to attend funerals or weddings, as we have observed (*Lys.* 1, §§5 ff.; [Dem.] 43, 62; Plato, *Laws*, 775 A; Eur. *Iph. in Aul.* 722); and we have the best of evidence that they were allowed to witness the performance of tragedies at the theatre* (Plato, *Laws*, 817 C; *Gorg.* 502 D; Aristoph. *Frogs*, 1049-1051), especially women of some education, to whom reference has been made (Plato, *Laws*, 658 D); and the presence of women and girls at religious festivals has been commented

*On the other hand, the evidence at our disposal seems clearly to indicate that women in Aristophanes' time did not witness the production of comedies (see Aristoph. *Peace*, 50-53, 765-766; *Eccles.* 165-168, 1140 ff.; *Clouds*, 348-355; *Acharn.* 496; *Birds*, 30; *Knights*, 228; *Thesm.* 785 ff.). This is the view of Rogers, as set forth in his edition of the *Ecclesiazusae* (Introd. pp. xxix ff.). The situation is not indisputably clear, however; thus, Haigh (*The Attic Theatre*, pp. 363 ff.) argues that women must have been present at both tragedy and comedy.

upon (see Aristoph. *Eccles.* 223; *Lysist.* 641 ff.; Isae. 8, §§19-20; Plut. *Sol.* 21). It is also significant that the number of the religious festivals observed by the Athenians was very large; further, that many of them were attended by women, and some by women exclusively * (see Kennedy, *Demosthenes' Orations*, Vol. III, App. VI, pp. 272 ff.).

In view of the foregoing facts, we may conclude that the opportunities of the women and girls of Athens for observing and being observed were more numerous than some critics are willing to admit. We may also be reasonably sure that in the presence of a great danger or emergency the Athenian women were capable of asserting themselves and coming to the relief of those who needed their comfort and aid—Lycurgus to the contrary notwithstanding. Andocides (I, 48) tells us that when he, his father, and his kinsmen were arrested and imprisoned, the mothers, sisters, or wives of certain of the prisoners came to them by night and ministered to their com-

Becker (*Charicles*, pp. 403 ff., Excursus on Theatre-Going) presents the leading aspects of the controversy, and the conclusions of several eminent scholars; and, basing his arguments chiefly on original authorities, he reaches the conclusion that women were present at tragedies, but that they did not attend comedies—at least not in early times. The question is obviously too large to be discussed in detail at this point.

* The presence of Athenian maidens and matrons at certain of these festivals is, to a modern, simply astounding. A significant passage, illustrating the general character of certain of these celebrations, is found in the *Acharnians* of Aristophanes, 241-279, wherein an account of the Rural Dionysia is given. The father has been instructing his daughter as to her part in the procession, and he says (vs. 261), ἐγὼ δ' ἀκολουθῶν ᾄσομαι τὸ φαλλικόν. Rogers in his introduction to the *Ecclesiazusae* (pp. xxix-xxx), speaks of certain symbols and signs which, to a modern, would be unspeakably offensive, but which "encountered the Athenian girl and matron everywhere, and even at the door of the house." He adds: "The pure and honorable maiden, who obtained the coveted distinction of bearing the Holy Basket in the procession of the Dionysia, walked through the admiring crowds accompanied by symbols and songs of, what we should consider, the most appalling immodesty. Yet to themselves the question of decency or indecency would not even occur. It was their traditional religion; it was 'the very orthodoxy of the myriads who had lived and died' in the city. And we know that ladies of all sorts and conditions attended the Roman Mimes, which had more than all the grossness, without the counterbalancing radiancy and patriotic elevation of Athenian comedy."

fort (cf. Lys. 13, 39). In cases of illness, also, there can be no doubt that the assistance of women was frequently invoked (cf. Becker, *Charicles*, p. 470; Gardner, *Manual of Greek Antiquities*, p. 349).

Again, there can be little doubt that the influence of women—and especially that of heiresses—was sometimes exceedingly potent in the home. Thus, we read in Aristotle (*Nic. Eth.* 8, 12, p. 1161), ἐνίστε δὲ ἄρχουσιν αἱ γυναῖκες ἐπικληροῦ οὔσαι. And the well-known anecdote which Plutarch (*Themist.* 18) tells of Themistocles is interesting in this connection. The great statesman is said to have remarked, in a jocose manner, that his little son was the most powerful of the Greeks; for the Athenians ruled the Greeks, he himself ruled the Athenians, the boy's mother ruled him, and the little fellow ruled his mother.

It is obvious that Greek writers—historians, dramatic poets, orators, and others—are practically unanimous in assigning to Athenian women a position far inferior to that occupied by Homeric women, and distinctly subordinate to that of the men of their day. And if we briefly consider the opinions expressed

by these authors with respect to woman's character and nature, we shall observe that these opinions are distinctly uncomplimentary, and quite in accord with the ideals entertained and the regulations enforced with respect to her proper position in the home and in society. And very significant in this connection are the observations of the philosophers of antiquity, who, although they have deliberately placed woman on a plane considerably below that of man, yet have shown a higher appreciation of her worth than many critics are willing to admit. Unlike Plato (*Rep.* 431 C), Aristotle protests against placing women and slaves on an equality (*Pol.* 1, 2, 3; cf. 1, 13, 7); but he also repeatedly insists upon woman's natural inferiority to man, as in *Politics* 1, 5, 7, where he says, τὸ ἄρρὲν πρὸς τὸ θῆλυ φύσει τὸ μὲν κρείττον, τὸ δὲ χεῖρον, καὶ τὸ μὲν ἄρχον, τὸ δὲ ἀρχόμενον. In the same strain he says, βέλτιον τὸ ἄρρὲν τοῦ θήλεος φύσει (*Problem.* 29, 11). Another significant passage occurs in the *Politics*, 3, 4, 17: "A man would be considered a coward, if he were only as brave as a brave woman; and a woman would be

Greek Writers' Unfavorable Attitude toward Women.

Attitude of the Philosophers.

thought extravagant, if she were only as frugal as an excellent man." In considering Aristotles' estimate of women, however, we must bear in mind that he speaks largely from the scientific point of view.

Not only Aristotle, but also the benign Plato speaks in an uncomplimentary manner of the feminine nature, as compared with the masculine. Thus, in one passage he says, λαθραιότερον μᾶλλον καὶ ἐπικλοπώτερον ἔφυ τὸ θῆλυ (*Laus*, 781 A); and he proceeds to express the view that women should be the more restrained, "in proportion as the feminine nature is inferior to the masculine as regards excellence"—ἀρετή.* In the *Republic*, however, Plato places men and women on very nearly the same footing; he tells us, in substance (455 B ff.), that the same natural gifts are found in both men and women, although the men possess them in a higher degree than the women; that both sexes are to be regulated by the same laws and are to have practically identical occupations; and that there are different degrees of excellence in both men and women.

But more significant, perhaps, than all else in the writings of Plato, as an index of his views concerning women, is his extraordinary advocacy of the abolition of marriage and the establishing of what would virtually have been a community of wives and children, for the governing members of society in his ideal commonwealth (*Rep.* 458 A ff.). The bare statement of his famous theory will suffice to show how widely the views of this great thinker diverged from modern ideals. It is to the everlasting credit of Aristotle that he combated so earnestly and so successfully this amazing doctrine of Plato's (*Pol.* 2, Chap. 3, 4). There can be no doubt that, in the position which Aristotle assigns to women, "he goes far beyond the Hellenic point of view" (see Susemihl & Hicks, *The Politics of Aristotle*, p. 34).

In the discourses of Socrates, as presented by Xenophon, the old philosopher is represented as holding, on the whole,

* Becker (*Charicles*, p. 464) seems to interpret the word ἀρετή as here employed, in the sense of "virtue" or "chastity"; if, however, we understand the word in the sense in which it is sometimes used, as meaning "active excellence,"—that is to say, "effectiveness,"—it is evident that the passage has a different force.

decidedly favorable opinions of women. Thus, in the *Memorabilia* (2, 2), Socrates rebukes his son for unfilial feeling toward the mother, and pays high tribute to woman's self-sacrifice and devotion. In the *Oeconomicus* (7, 22 ff.), the speaker compares the woman's nature favorably with that of the man; and in speaking of the attributes of the masculine and feminine nature, he says, in particular (§26), οὐκ ἂν ἔχοις διελεῖν πότερα τὸ ἔθνος τὸ θῆλυ ἢ τὸ ἄρρεν τούτων πλεονεκτεῖ. In the *Symposium* of Xenophon (2, 9), Socrates speaks of the capacity of women for dancing and for gymnastics, and remarks: "In many other directions also . . . it is evident that the nature of the woman happens to be in no way inferior to that of the man, but it (the former) lacks judgment and strength."

When we approach the dramatic poets, and particularly the writers of comedy, we find that woman is the recipient of much vituperation and abuse. And here we must be on our guard; for although comedy, as Horace tells us, takes its subjects from common life (*Epist.* 2, 1,

Attitude of the Dramatic Poets. 168-170), and to this extent is likely to be true to reality, yet at the same time we must remember—and this can hardly be re-

iterated too emphatically—that it is the comic poets' privilege and tendency to exaggerate and distort for the sake of comic effect.* Hence, we cannot accept literally certain passages

* Mahaffy, who very properly refuses to regard the *Lysistrata*, *Thesmophoriazusae*, and *Ecclesiazusae* as actually reflecting Greek life, suggests as a possible explanation for the attacks on women contained in these plays, that they arose, "not from a low opinion of women in the poet, not from any desire of scourging a great rampant evil, . . . but rather from the remnant of some old religious customs, where women met apart, . . . and where also mimic choruses, during the feasts of such goddesses as Demeter and Cora, devoted themselves to licentious abuse of women, at times even exclusively." "There is not evidence enough to prove the custom at Athens," continues Mahaffy, "and to show the filiation of Aristophanes' comedies from these choruses. . . . My hypothesis rests on the fact that Aristophanes perpetually rails at Euripides for this very feature, that his other comedies are nearly free from it, and that the custom, which I presuppose at Athens, certainly did exist at Epidaurus, connected with the worship of Damia and Auxesia, which are probably local names for Demeter and Cora. . . . Possibly, therefore, these famous ribaldries about women are not meant to convey any bad impression of them by the poet" (*Social Life in Greece*, pp. 210-211).

vituperative of women, contained, for example, in the Roman comic poets, wherein the exaggeration is obvious (*e. g.* Plaut. *Asin.* 42; *Mil.* 685-686); at the same time such passages are not to be entirely ignored. Similar passages from Aristophanes and Menander, although doubtless exaggerations, yet show the tendency of the times and cannot be disregarded. We may point, for example, to a well-known passage from Menander (p. 190 Mein.), which indicates that the wife was usually regarded as a necessary evil in the household:

ἀνάγκη γὰρ γυναῖκ' εἶναι κακόν,
ἀλλ' εὐτυχής ἐσθ' ὁ μετριώτατον λαβών.

And we may add that a large number of similar passages from Menander, exceedingly derogatory to women, might be cited (*e. g.* cf. *Frag.* 648, p. 191, Kock; *Frag.* 652, p. 192; *Frag.* 704, p. 201). So, too, in the *Lysistrata* of Aristophanes (vs. 42), the speaker exclaims, τί δ' ἂν γυναῖκες φρόνιμον ἐργασαίαιτο; Lysistrata herself remarks that the women are regarded by the men as πανοῦργοι; whereupon her friend rejoins, καὶ γὰρ ἐσμεν νῆ Δία (*Ibid.* 11-12). A still more striking passage, illustrative of the low estimate in which women were held, occurs in the *Thesmophoriazusae* (786 ff.):

καίτοι πᾶς τις τὸ γυναικεῖον φύλον κακὰ πόλλ' ἀγορεύει,
ὥς πᾶν ἐσμέν κακὸν ἀνθρώποις καὶ ἡμῶν ἐστὶν ἅπαντα,
ἔριδες, νεῖκη, στάσις ἀργαλία, λύπη, πόλεμος.

Of the tragic poets, Euripides has written a large number of lines highly unfavorable to women. Conspicuous among such passages are the bitter words of the unhappy Medea in the well-known play bearing her name (vss. 407-409), in which she speaks of women as "altogether impotent for good, but exceedingly clever contrivers of all evil." Another representative passage in the same general strain is found in the *Iphigenia at Aulis* (vs. 1394), wherein the heroine exclaims that "one man is better than ten thousand women." Becker (*Charicles*, p. 463) regards this passage as expressing the "deeply-rooted sentiment of Greek antiquity" respecting women. And this view of Becker's is all the more significant, in view of the fact that our distinguished authority is inclined to discount as rhetorical exaggerations many of the Euripidean

passages vituperative of women (*e. g.* *Hippol.* 616 ff.; see *Charicles*, *loc. cit.*). However, with respect to such passages as the two which I have quoted above, it is only fair to remember that the utterance of a woman in an emergency, or in a moment of passion, cannot fairly be regarded as expressing the deliberate conviction of her sex.

If it were safe to cite an isolated fragment as illustrative of the author's real attitude, we might point, for example, to *Fragment* 550 (from the *Oedipus*):

πᾶσα γὰρ ἀνδρὸς κακίων ἄλοχος,
καὶν ὁ κάκιστος
γῆμη τὴν εὐδοκимоῦσαν.

This is surely vindictive enough; but it would obviously be unfair to cite it as evidence of Euripides' real feelings, without knowing the context. Nevertheless, many such bitter passages are found in this author's works. But as an antidote to such passages as the foregoing, we may refer to *Fragment* 164 of the *Antigone*, wherein we read that "a sympathetic wife is man's best possession."

Notwithstanding the existence of particular passages of Euripides vituperative of women, it will be found that types and situations are presented by the poet which convey to us a very different impression of his attitude toward women. For example, the beautiful picture of Alcestis, so strikingly drawn by the great dramatist, seems to carry with it the recognition on the part of the poet that Greek women sometimes occupied honored and commanding positions in the home and in society. And in this connection I desire to quote a few words from Mahaffy, who says, after remarking that Alcestis was not an

exceptional type of heroine with Euripides:

Mahaffy's "We have it, under varying circumstances, in
Optimistic the splendid though little known Macaria of the
Views. Heracleidae. . . . We have another modifica-

tion of it in the better-known Polynexa, who is
indeed doomed to die, but who meets her death with great nobility. We have the type of Polynexa carried out with infinitely more grace and beauty in Iphigenia (in Aulis)" (*Social Life in Greece*, p. 202). The portrayal of such noble types by this most realistic of tragic poets, would certainly seem to

indicate that Greek women were not generally held in such low esteem as some critics would lead us to suppose.

Mahaffy says of Euripides in his attitude toward women: "While he is perpetually putting into the mouths of his heroes the most virulent abuse of them, yet the majority of his heroines . . . are the noblest and best of women. There are in fact very few contemptible and frivolous characters among them. . . . Even his much-abused Phaedra . . . is a noble and pure nature, wrestling in vain with a passion directly inflicted by the spiteful Aphrodite"* (*Ibid.* p. 200). Mahaffy maintains that many of the Euripidean passages derogatory to women, occurring, for example, in the *Hippolytus*, are "spoken in character, and by angry or disappointed people" (*Ibid.* p. 286), and that they are by no means to be regarded as representing Euripides' own attitude—contentions which the impartial reader will acknowledge to be reasonable.

Of Aeschylus in his attitude toward women little need be said. As he deals so largely with great world problems, little room is left, in his extant tragedies, for the delineation of social life. Mahaffy speaks in an interesting manner of the pictures Aeschylus has left us of Clytaemnestra and Electra (*Ibid.* pp. 150 ff.), and remarks: "The principal result attained for our social sketch from the works of Aeschylus is the high conception he forms of the ability and importance of women, and how large a part they play in human history."

The impressions derived from a study of Sophocles, as to the

* While it is true that the Phaedra of the play which has come down to us is an unfortunate rather than a deliberately guilty woman, yet it is evident that in the earlier play, which was apparently distasteful to his Athenian audience, Euripides represented Phaedra as utterly reckless and shameless. The author of the *Vita Euripidis* refers to the earlier drama as one ἐν ᾗ τὴν ἀναισχυντίαν ἐθριάμβευε τῶν γυναικῶν. Aristophanes' attacks upon Euripides for introducing objectionable characters upon the stage, and for inculcating immoral ideas in general (see *Frogs*, 1043 ff.), are not altogether fair; and yet we cannot read the criticism of Euripides which Aristophanes has placed in the mouth of Aeschylus,—and especially when we remember the constant tendency of Euripides to disparage women,—without feeling that the attitude of the great dramatist toward women was unfriendly and unfair, and that his influence upon home life and upon social standards in general cannot always have been uplifting.

author's views of the character and influence of women, are distinctly pleasing. Without going into details on this point,—for the treatment of the topic must necessarily be brief,—I shall merely quote a remark by Jebb, which is pertinent to the subject (*Attic Orators*, Vol. 1, Introd. p. xcix): “No woman in Greek tragedy is either so human, or so true a woman, as the Antigone of Sophocles.” It is hard to conceive of the author of so perfect a portraiture as that of Antigone, as entertaining anything but ennobling ideals of women. And it is quite as difficult to believe that such beautiful and noble creations as Antigone and Alcestis owed their existence solely to the imagination of the poets; like true artists, the great dramatists must have found some strong and beautiful types among the Athenian women about them.

If now we contemplate the lyric poets, we shall observe some admirable ideals concerning the character and position of Greek women. The reader's attention is particularly invited to the exquisite fragment of Simonides of Ceos, containing the lament of Danaë; and the impartial critic will readily admit

that the expressions of maternal love here contained may be compared favorably with Homer's finest utterances. Mahaffy says (*op. cit.* p. 108): “In this, the most exquisite of all the lyric fragments, the purest maternal love and the noblest resignation find their most perfect expression; and we may safely assert that the poet and the age which produced such a poem, cannot have been wanting in the highest type of female dignity and excellence.” Our authority also calls attention to certain passages by Simonides of Amorgus in the poem concerning women, as illustrating the spirit of the age.

Although parts of the poem are offensive to a modern reader and are, for the most part, exceedingly derogatory to women, yet in the passage in which the excellent woman is so highly praised (vss. 83 ff.), there is presented to us a most pleasing picture. Mahaffy says: “I call the reader's attention particularly to the fact that the public appearance in society of married women is so openly recognized throughout the poem. He will also see how heartfelt and earnest is the praise of the virtuous woman, in spite of all the poet's cynicism” (*Ibid.* p. 113).

It must be acknowledged, I think, that the sketches of Greek women drawn by the tragic and lyric poets are, on the whole, pleasing to a modern reader. From the historians we naturally

derive little information as to woman's

Our General character and social status. Xenophon, as we **Impressions of** have seen, is sympathetic; and in the charming **the Situation.** ing narratives of the genial Herodotus we do

not find harsh strictures upon Greek women, although their isolation, as we have noted, is clearly brought out. The grim Thucydides does not, of course, enlighten us in regard to Greek private life; his subject and method do not permit of such digressions; but the aphorism—heretofore cited—which he has placed in the mouth of Pericles, as to woman's silent and secluded life, clearly indicates an unfriendly attitude toward the sex.

With respect to the orators, it is sufficient, at this point, to observe that the impressions which we derive from them are gloomy in the extreme; their attitude toward women, however, can be discussed to better advantage in connection with marriage and the relations of the family. But we must bear in mind that the orators represent the formal and legal side of social life; and due allowance must be made for their point of view.

If we could convince ourselves that the ideals of the lyric age with respect to woman's character and position applied as well to the later period, and that the tragic poets, to whom we are indebted for so many charming pictures, have portrayed not only types and situations belonging to the heroic past, but also the ideals of their own time,—then we should be justified in concluding that these brighter pictures are to be relied upon as offsetting, to a considerable extent, the gloomy portraits presented by the orators, philosophers, and writers of comedy. But we must remember that in lyric poetry and in tragedy the ideal rather than the actual is likely to be emphasized; and although Euripides frequently transfers to the heroic age the feelings and customs of his own time, yet the setting and atmosphere of the Greek tragedies seem, to a large extent, to transport us to periods long antedating the Age of Pericles.

I do not think that we are justified in adopting the extreme

view of Becker (*Charicles*, p. 464), that "the only ἀρετή of which women were thought capable in that age differed but little from that of a faithful slave"—a view decidedly opposed to the optimistic ideas of Mahaffy. At the same time,—and notwithstanding the pleasing pictures drawn by Xenophon, and by the tragic and lyric poets,—we cannot avoid the conclusion that the situation portrayed by the orators, philosophers, and historians represents approximately the truth regarding Athenian woman; and that the sketches drawn by the writers of comedy, although exaggerated and distorted, yet approach the truth almost as closely, perhaps, as the highly idealized and artistic productions of the tragic and lyric poets. It is impossible to believe that the Athenian women of the period of the orators occupied an honored and prominent position; with the evidence at our disposal, we may affirm that they rarely, if ever, enjoyed the privileges and the influence possessed by the Homeric women. The attitude of the majority of the Greek writers toward women, although unfriendly and unchivalrous, evidently expresses the feeling for the sex that actually existed at Athens, during the period of her greatest intellectual and material ascendancy.

As heretofore indicated, I have thought it desirable to emphasize the secluded life and dependent position of the Athenian woman, because these conditions of Athenian life affected so directly the individual, the family, and society. Unless we clearly comprehend the attitude of the Athenians, individually and collectively, toward the women of their state, many of the social phenomena with which we have to deal appear incomprehensible. And in particular we are led to the conclusion that the slight education and retired life of the Athenian women were largely responsible for the prominence of the *hetaerae* in Greek life,* and the association with them of even

* Sir John Lubbock, the distinguished author of *Origin of Civilization*, has a novel explanation for the extraordinary prominence and influence of the *ἐταῖραι* in Greece during historical times. He thinks—as other eminent authorities have also held—that communal marriages originally existed among pre-historic Greeks; and he maintains that this condition was gradually superseded by individual marriages founded on capture (*op. cit.* pp. 98 ff., 103 ff.). Under these circumstances, he thinks it natural that the *ἐταῖραι*, in historical times, should

Effect upon Society of Woman's Secluded Life.

eminent men. For we must bear in mind that during the age of the orators almost the only Athenian women of independence, education, and accomplishments belonged to the peculiar class mentioned (see Becker, *Charicles*, pp. 247, 465). Grote says in this connection: "These women were numerous, and were doubtless of every variety of personal character, but the most distinguished and superior among them, . . . appear to have been the only women in Greece, except the Spartan, who either inspired strong passion or exercised mental ascendancy" (*History of Greece*, Vol. 6, p. 100).

Again, the secluded life of the Athenian women of the better classes must have been largely responsible for the extraordinary prevalence, among the Athenians, of *παιδεραστία*—a phenomenon which seems to have been altogether unknown in the Homeric age. The extravagant devotion of Athenian men to handsome youths is no doubt partly to be explained by the admiration of the Greeks for all that was beautiful. But this explanation is, after all, inadequate; it does not wholly account for the excessive admiration of Critobulus for his friend Cleinias, as described in Xenophon's *Symposium* (4, 10 ff.); still less does it account for the deplorable conditions set forth by Aeschines in his speech *Against Timarchus*. The ultimate explanation of the existence of conditions such as these is undoubtedly to be found in the refusal of the men of Athens to permit their mothers, wives, and sisters to occupy their due position of influence in the home, and to grace the society for the adornment of which, under happier conditions, they would have been so admirably fitted.

The prominence of the *ἐραῖραι* and the prevalence of

have been held in higher esteem than women who were duly married to lawful husbands; for the former "were originally fellow countrywomen and relations; the latter captives and slaves." "And even when this ceased to be the case," Lubbock continues, "the idea would long survive the circumstances which gave rise to it" (*Ibid.* p. 127). This ingenious theory seems to leave out of account the high and honored position occupied by the women of Homer. But, as we have heretofore observed, it is probable that another side of life existed in Homeric times, of which the bards make no mention.

παιδευασία certainly had a marked and disastrous effect upon family life and social usages in general. For—leaving out of further consideration the subject of παιδευασία—it was inevitable that the Athenian youth should be led astray and that the tone of society should greatly deteriorate (Isoc. 7, 48), when the men were so largely excluded from the society of women of their own class, and when the ἐταῖραι so far surpassed in accomplishments and powers of fascination the free citizen women of Athens. The unwholesome condition of affairs which prevailed at Athens and elsewhere during this time not only encouraged profligacy on the part of the young men before marriage, but it stimulated restlessness and infidelity after marriage. We have abundant evidence that the men of Athens were only too prone to disregard the marriage vow, and that their evil practices were usually regarded by the community with indifference, and were looked upon as inevitable (see [Dem.] 59, §§22, 23, 45 ff.; 40, 8; Isae. 6, §§18 ff.). It is evident, in short, that men of the type of Chremes in the *Phormio* of Terence and of Euctemon in the 6th oration of Isaeus—to say nothing of the characters which appear in the Demosthenic speech *Against Neaera* and in the 1st oration of Aeschines—were altogether too numerous in Athenian society. It is not, therefore, surprising that Plato deplored the low moral tone prevailing among the men of Athens (see *Laws*, 840 D ff.); and that even Solon before him, according to tradition, had despaired of enforcing continence on the part of Athenian citizens (Athen. 13, 569 D; Harpoc. s. v. πάνδημος Ἀφροδιτή). And, indeed, if dependence could be placed upon passages from Aristophanes (*Eccles.* 225 ff., 720 ff.), as really indicative of the views of Athenian women with respect to marriage, it would appear that even their ideals were seriously perverted. It is evident, moreover, that public opinion not only tolerated with complacency the most reprehensible performances on the part of Athenian citizens, but that the State officially sanctioned such practices (see Aeschin. 1, 119; Böckh, *Public Economy of Athens*, p. 333; Becker, *Charicles*, p. 243). And, astonishing though it may seem, we actually find the upright Socrates calling upon the ἐταῖρα Theodota, and holding a lengthy conversation with her (Xen.

Mem. 3, 11). The indulgent attitude of the old philosopher toward this celebrated and dissolute woman is certainly a striking commentary on the social conditions prevailing at Athens during the period of the orators.

CHAPTER V.

THE ATHENIAN MARRIAGE.

When we enter upon a consideration of Athenian marriage in its various aspects, we observe that the religious idea and the feeling of obligation to the State were everywhere dominant, not only as regards the formal relations existing between the various members of the family, and between the head of the family and the State, but also as regards the motives which actuated the Athenians in forming marriages, and the ideals which influenced them in all their marriage relations. We also observe marked restrictions in many directions,—especially as regards nationality, social position, and woman's sphere,—and in some respects we note surprising liberty of action—particularly with respect to marriage between relatives.

Considering now the first-named of these restrictions, we observe that every Athenian was forbidden by law to marry a foreigner, under pain of the severest penalties * ([Dem.] 59,

* Lawful marriages between citizens and foreigners were, however, permitted under exceptional circumstances—when *ἐπὶ γαμία* had been conferred upon a foreigner, who had rendered distinguished services to Athens (Schömann, *Antiquities of Greece*, pp. 355, 515; cf. Plut. *Sol.* 24; [Dem.] 59, 89). The testimony of our Greek authorities as to the general rule that only Athenian citizens could lawfully wed, is direct and unequivocal. Apart from the passages cited above, attention may be drawn particularly to the oath regularly taken by the Athenian father, when presenting his son by birth or adoption to the members of his phratry, that the boy was born of a duly wedded wife who was a citizen of Athens (see Isae. 8, 19; 7, §§15, 16; 12, 9). The testimony of our ancient authorities is also accepted by nearly all modern scholars. And, irrespective of the evidence at our disposal, it is evident that a marriage between an Athenian and an alien was utterly at variance with the true Athenian spirit, and entirely irreconcilable with the motives and ideals which influenced the Athenians in all their marriage relations. Moreover, we know that many persons of the *νόθος* class were the sons of Athenians and aliens (Athen. 13, 577, 38; cf. Isae. 12, 7), and that severe disabilities were imposed upon such *νόθοι*, especially as regards inheritance rights (Aristoph. *Birds*, 1660 ff.). The extreme disfavor

§§16, 17; cf. Plut. *Pericl.* 37). It is probable, however, that this restriction did not exist in early times (see Hdt. 6, 130);

and the influx of foreigners into Athens at the

Restrictions in Marriage. time of Pericles may have been the immediate cause which necessitated such a law. The

Athenians, who had now reached the full consciousness of their greatness, evidently felt that a union between a citizen and an alien would violate the principle of preserving the purity of the race, and would also tend to diminish patriotic feeling and enthusiasm in religious observances. So strong, indeed, did the prejudice become against the intermarriage of an Athenian and a foreigner, that even the Athenian citizen, we are told, who gave a woman of foreign blood in marriage to an Athenian, representing her to be a relative of his, was liable to disfranchisement and the loss of his property ([Dem.] 59, 52). Furthermore, an Athenian who had married a woman of foreign blood, supposing her to be an Athenian, was apparently justified, in the eyes of the community, in dismissing her from his home, if he discovered that she was of foreign extraction (*Ibid.* §§62, 63).

In marked contrast with this restriction as regards nationality, was the freedom possessed by the Athenian with respect to the marriage of relatives. The marriage of cousins was, apparently, exceedingly common (see Isae. 1, 39; 3, 74; 8, 7; Andoc. 1, §§117 ff.), and it is evident that the Athenian actually

Marriage between Relatives. preferred to marry a relative rather than to go outside the family; this is shown in an interesting passage from Pseudo-Demosthenes (43, 74), in which the speaker distinctly states that he gave his daughter in marriage to his nephew rather

than to an outsider, in order to preserve the family lines. For it is obvious that when relatives had wedded,* and when the

with which these νόθοι were regarded by the Athenians, clearly shows that the marriage of the parents of such persons could not have had the approval of the Attic law. (The status of the νόθοι will be discussed in the following chapter.)

* In consequence of the custom of marriage between relatives, it sometimes happened that the relationships became peculiarly complicated. Thus, in an instance recorded by Lysias (32, §§4, 5) Diodotus' niece is

retention of the inheritance in the family was thereby assured, family pride and hereditary associations would tend to promote fidelity in religious observances, and enthusiasm in the discharge of obligations to the State.

Again, numerous instances are recorded by the orators of the marriage of uncle and niece (Isae. 3, 74; 8, 31; 10, 5; Lys. 32, 4). Stranger yet, from our point of view, and naturally less frequent, was the marriage of aunt and nephew. We read in Demosthenes (27, 5), that the father of the orator, feeling that his end was approaching, betrothed his prospective widow to one of his nephews. The circumstance that the latter neglected to marry his aunt after his uncle's death is immaterial, so far as our argument is concerned; for it is clear that, in this instance, all parties acquiesced in the proposed arrangement; and there can be no doubt that such marriages were definitely recognized by the Athenians.

The peculiar freedom possessed by the Athenian with respect to the marriage of kinsfolk is still further illustrated in the marriage of the heiress (*ἐπίκληρος*) to her brother by adoption (Isae. 3, §§68, 69; Dem. 41, 3)—a topic which will be discussed more fully in another connection. We may note in passing, however, that such marriages were frequent and were practically obligatory (see Meier & Schömann, *Der attische Process*, p. 503).

Far more surprising, and even repellant, from our point of view, are the instances recorded in which a brother marries his half-sister. In Demosthenes 57, 20, the speaker remarks, ἀδελφὴν γὰρ ὁ πάππος οὐμὸς ἐγγημεν οὐχ ὁμομητρίαν. This passage indicates the restriction imposed in marriages of this class, namely, that the brother and sister must not be children of the same mother (see Plut. *Themist.* 32, 3; Pausan. 1, 7, 1; Achil. Tat. 1, 3; Nep. *Cim.* 1). In Menander's *Γεωργός*, the son of the family is expected to marry his half-sister (see Grenfell & Hunt ed., vss. 1-12). Becker (*Charicles*, p. 478) thinks it

his wife, and his brother is consequently his father-in-law; the latter is uncle and grandfather of Diodotus' sons, and is the brother-in-law of his own daughter. In Demosthenes 41, 3, Leocrates is the adopted son, the brother-in-law, and the son-in-law of Polyectus.

probable that such marriages were universally condemned, except in the earliest period (see Lys. 14, 41; Eur. *And.* 174-176).

It is evident that relationship, with slight limitations, was not regarded by the Athenians as a bar to matrimony; that marriage, in short, could take place within all degrees of ἀγχιστεία or συγγένεια, although not, of course, in the γένος itself, i. e. the direct line of descent or ascent (see Isae. 8, 33). As Schömann expresses it, "There were no prohibited degrees of affinity in marriage, excepting for parents and descendants and full brothers or sisters by both sides" (*Antiquities of Greece*, p. 356; cf. Meier & Schömann, *Der attische Process*, pp. 501-502). The horror with which the marriage of Oedipus was universally regarded may be taken as a clear indication of the feeling of the Greeks in this respect. The apparent disapproval with which even the marriage between the brother and the half-sister was sometimes viewed,—as indicated above—illustrates further the tendency of the Athenian to draw the line sharply at the γένος.* Plato (*Laws*, 924 E ff.) while

*In connection with the subject of marriage between relatives, I desire to call attention to an extraordinary and erroneous view repeatedly advanced by Morgan in his work entitled *Ancient Society*, to the effect that marriage within the *gens*, or clan, was prohibited, except in the case of "heiresses and female orphans for whose care special provision was made" (*op. cit.* pp. 224 ff., 345 ff., 354 ff., *et passim*). We have seen that marriage was customary within almost all degrees of relationship; and nowhere have I found a passage from a Greek author even suggesting that there was any prohibition as to marriage within the clan. Any such restriction as this would, so far as I can see, be not only artificial but meaningless, and would constantly interfere with the well-authorized practice of marrying a relative. The motives which actuated the Athenians in marrying their relatives—the preservation of the inheritance and the family lines, with the resulting benefits to the individual, the family, and the State—are perfectly clear, and are entirely independent of any such connections as those of the *gens*, or clan. Mr. Morgan has entirely misunderstood a passage in Becker's *Charicles* (p. 477) to the effect that marriage could take place within almost all degrees of relationship, "though naturally not in the γένος itself." Here the word γένος is used by Becker in the primary sense of "line," "stock," in other words, *the direct line of descent*, as is proved not only by the context, but by the definition of γένος which Becker immediately gives in a passage from Isaeus, 8, 33: Κίρωνος

enumerating the grades of relationship within which the daughters might marry in case their father had died intestate, makes mention only of collaterals. Of course, the feeling which prompted the Athenians to avoid marriage within the direct line of descent—the *γένος*—was instinctive (see Westermarck, *The History of Human Marriage*, p. 319). Plato speaks of this “unwritten law,” and of the instinctive aversion to any such unnatural alliance (*Laws*, 838 A B), which preserves the purity of the home.

With respect to the age at which marriage took place, there appears to have been no fixed rule among the Athenians; and from the fact that uncle and niece so frequently married,—to say nothing of the occasional marriage of nephew and aunt—it is evident that disparity in age was not regarded as an

πότερον θυγάτηρ ἢ ἀδελφὸς ἐγγυτέρω τοῦ γένους ἐστί; δῆλον γὰρ ὅτι θυγάτηρ· ἡ μὲν γὰρ ἐξ ἐκείνου γέγονεν, ὁ δὲ μετ' ἐκείνου. θυγατρὸς δὲ παῖδες ἢ ἀδελφός; παῖδες δῆπουθεν· γένος γὰρ ἀλλ' οὐχὶ συγγένεια τοῦτ' ἐστίν. Morgan has unfortunately taken the word *γένος*, as used above by Becker, to mean “gens,” or “clan.” Morgan also finds in the *Supplices* of Aeschylus proof of the soundness of his extraordinary view that the Athenian husband and wife must belong to different *gentes*, or “clans” (*op. cit.* pp. 354-355). It will be remembered that, according to tradition, Danaüs, the brother of Aegyptus, had fled from Africa to Argos with his fifty daughters in order to escape the hostile violence of his nephews, and had been hospitably received by the king and people of Argos; that subsequently the fifty sons of Aegyptus came to Argos and urged Danaüs to lay aside past enmities and give them their cousins in marriage; that Danaüs, remembering the efforts of his nephews to deprive him of his Libyan kingdom, and distrustful of their assurances, consented, but instructed his daughters to assassinate their husbands on the night of their marriage (Apollod. 2, 1, 4; Hygin. *Fab.* 168, 169, 170; Aesch. *Suppl.*, *passim*; *Prom.* 850 ff.). Now one of the explanations given by Morgan for the reluctance of the Danaïdes to wed their cousins rests upon the assumption that the maidens were of the same *gens*—“clan”—as the sons of Aegyptus, and hence forbidden to marry these cousins. But I have not discovered in the *Supplices* any evidence that the aversion of the Danaïdes to a marriage with their cousins was not due to fear and indignation arising from the wrongs which they themselves and their father had suffered, and were likely to suffer, from the sons of Aegyptus. Furthermore, as the Danaïdes were Libyan maidens, their views on marriage can scarcely be regarded as illustrative of Athenian feeling. Morgan's contentions seem to be absolutely without foundation.

obstacle to matrimony. And, apart from the marriage of relatives, it is evident that there was often a great discrepancy between the ages of husband and wife. Thus, we learn that Demosthenes' sister was five years of age at her father's death; and that the father, having appointed a nephew as the girl's future husband and as one of the guardians of the estate, left instructions that his daughter should wed the nephew when she had reached the marriageable age—ten years, in this instance (Dem. 27, 5; 29, 43). Again, in the 2d oration of Isaeus (§§4, ff.) we read that a certain Meneclēs, already advanced in years, asks the hand of the speaker's younger sister, who has just reached the marriageable age; and that, notwithstanding the discrepancy in years, the girl is given to him in marriage by her brothers.

It is evident, then, that girls were sometimes married at an exceedingly youthful age—at fifteen, fourteen, and occasionally at even an earlier age, as in the case of Demosthenes' sister, just mentioned (cf. Xen. *Oecon.* 3, 13; 7, 5; Aristoph. *Lysist.* 595). Such extreme youthfulness, however, was evidently exceptional (see Becker, *Charicles*, p. 479; Xen. *loc. cit.*); although it seems to have been the usual rule that the bride should be considerably younger than her husband (Stob. *Tit.* 71, 3; cf. Plato, *Rep.* 460 E; *Laws*, 785 B; Arist. *Pol.* 4 (7), 16, 9). And it is evident that the Athenian girl who did not wed at a comparatively early age was thought to be unlikely to marry at all (Aristoph. *Lysist.* 596-597).

As to the most suitable age for the marriage of men, there was apparently no fixed rule. The husband was sometimes exceedingly youthful ([Dem.] 40, 4); and, on the other hand, it is evident from the instances already cited that age on the man's part was not regarded as a barrier to marriage (Isae. 2, 4; Menand. *Γεωργός*, 68 ff.). Plato suggests thirty to thirty-five as a suitable age for men to marry (*Rep.* 460 E; *Laws* 785 B); and Aristotle thirty-seven or less (*Pol.* 4 (7), 16, 9); and the same authorities, in the above passages, suggest sixteen to twenty as the most suitable age for the marriage of girls.

Inequality of social position was deemed a serious obstacle to marriage. That the principle of marrying according to one's station received wide recognition is evident, especially

when one observes the many passages occurring in the comic poets, where rich men seek to wed the sisters or daughters of their poorer neighbors. **Social Position in Marriage.** Thus, in the *Aulularia* of Plautus, where the rich Megadorus asks for the hand of the daughter of the poor Euclio, the latter remarks (vs. 235): "Hoc magnumst periculum, ab asinis ad boves transcendere." Again, in Plautus' *Trinummus* (688 ff.), Lesbonicus is disturbed at the thought of his undowered sister being wedded by the rich Lysiteles; in short, the whole plot of the play revolves about the thought of the impropriety of so unequal an alliance, and the reluctance of the poor to enter upon it.

Interesting also, in this connection, is the lament of Strepsiades in the opening scene of Aristophanes' *Clouds* (vss. 41 ff.), that he had wedded a fashionable and aristocratic woman, whose social position was far above his own. The same general thought is expressed in a passage from Euripides (*Frag.* 504), wherein the speaker remarks that those who marry women of wealth or of superior social position "know not how to marry; for the wealth of the wife, dominating in the home, makes a slave of the husband." So, too, in a choral passage from the *Prometheus Vincit* of Aeschylus (vss. 887 ff.), the chorus expatiates upon the desirability of marrying within one's station.

When we consider the subject of marriage even from the man's standpoint, we are immediately impressed by the restrictions and the constraint exercised upon the individual in the selection of a life partner. For it frequently happened that an Athenian was not permitted to choose his wife; under certain circumstances, his partner for life was thrust upon him, irrespective of his own feelings in the matter. **Marriage from the Man's Standpoint.** When a father died without sons, leaving a daughter—the *ἐπίκληρος*—neither married nor betrothed, it became the duty of the next of kin to marry the girl, or to give her in marriage with a dowry.* In Isaeus 1, 39, the speaker says of his

*In case the nearest male relatives belonged to the class known as *θητες*—serfs, or hired laborers—they seem to have been exempt from these responsibilities (see Wyse, *The Speeches of Isaeus—Commentary*,

uncle Cleonymus and the latter's daughters: εἰ . . . Κλεώνυμος ἐτελεύτησε θυγατέρας ἀπορουμένας καταλιπών, ἡμεῖς ἂν διὰ τὴν ἀγχιστείαν . . . ἡναγκαζόμεθα . . . τὰς Κλεωνύμου θυγατέρας ἢ λαβεῖν αὐτοὶ γυναῖκας ἢ προῖκα ἐπιδιδόντες ἑτέροις ἐκδιδόναι, καὶ ταῦθ' ἡμᾶς καὶ ἡ συγγένεια καὶ οἱ νόμοι καὶ ἡ παρ' ὑμῶν αἰσχὺν ποιεῖν ἡνάγκαζεν ἂν, ἢ ταῖς μεγίσταις ζημίαις καὶ τοῖς ἐσχάτοις ὀνείδεσι περιπεσεῖν. In the *Phormio* of Terence the whole plot rests upon the obligation of the next of kin to marry the daughter. Thus, in lines 125-126, we read: "There is a law that orphan girls shall marry the nearest of kin, and this same law commands the male relatives to

Marriage of the wed the girls." (Cf. vss. 295 ff., 409 ff.)
Heiress with the In the 1st oration of Andocides (§§117
Nearest of Kin. ff.) the orator tells us how he claimed one of his uncle's daughters in marriage, after the girl's father had died without male issue. Andocides comments upon the small amount of property left by his uncle, and upon the heavy liabilities of the estate; still (§119), since the father, if he had lived, would naturally have betrothed one of his daughters to the speaker, as next of kin; and since—as the speaker frankly admits—he would have been very ready to claim the girl, had a rich inheritance accompanied her,—therefore he now feels it to be his duty to marry her. Many passages, illustrating the duty of the next of kin to wed the heiress, might be cited (*e. g.* cf. Isae. 3, §§72, ff.; 10, §§4 ff.; 8, 31); * and it is clear that the woman who was not promptly claimed by the next of kin was thought to be suffering a positive injustice (Isae. 10, 5). It would seem, in short, that no principle of Athenian inheritance law was more firmly established than the obligation of the next of kin to wed the

p. 221). If on the other hand, the woman belonged to this class, and was consequently undesirable as a bride, from the Athenian point of view, the nearest of kin was under obligation to give her in marriage, with a dowry commensurate with his means, according to a scale fixed by law. If there were several kinsmen standing in the same degree of relationship, they appear to have been severally responsible; and the archon was required to enforce the law ([Dem.] 43, 54; Harpoc. s. v. *θηῖτες*; Phot. s. v. *θηῖσαι*).

* Nothing definite can be stated regarding claims to the hand of an heiress who had not yet reached a marriageable age (see Wyse, *Commentary*, pp. 321, 322, 501).

heiress; for this arrangement appeared to the Athenians to be best calculated to insure the perpetuity of the family, the preservation of the inheritance, and the maintenance of the domestic cult—an arrangement, in short, most likely to benefit the individual, the family, and the State.

On the other hand, the Athenians seem to have realized that a marriage with an heiress of superior wealth was not desirable from every point of view; thus, Mahaffy calls attention to an interesting passage on this subject from Menander, which he renders as follows: "Whosoever desires to marry an heiress, is either suffering under the wrath of the gods, or wishes to be called lucky, while he is really miserable (*Social Life in Greece*, p. 287).

Not only as regards marriage with the next of kin, but in general, it will be observed that an Athenian was likely to be greatly restricted in choosing a wife. It seems to have been an almost universal custom that the Athenian father should

The Father chooses his Son's Wife. select a wife for his son. Thus, in Isaeus 2, 18, the speaker says of his adoptive father: *ἐσκόπει ὁ Μενεκλῆς γυναῖκά μοι, καὶ ἔφη με χρῆναι γῆμαι· καὶ ἐγὼ λαμβάνω τὴν τοῦ Φιλονίδου θυγατέρα.*

In an instance recorded by Pseudo-Demosthenes (40, §§4, 12) the speaker's father requires the young man to marry at the age of eighteen. In Menander's *Γεωργός* (vss. 1 ff.), we observe that the father arbitrarily selects a wife for his son, when the latter is temporarily absent from home. Many instances of the exercise of parental authority in choosing a wife for a son could be cited from the Roman comic poets. As illustrating the father's disposition in this regard, we may refer to a passage from the *Phormio* of Terence (vss. 231 ff.), in which Demipho says of his son's unauthorized marriage:

Itan tandem uxorem duxit Antipho iniussu meo?
nec imperium meum, ac mitto imperium, non simultatem
meam
reuereri saltem! non pudere! o facinus audax!

(Cf. Plaut. *Trin.* 1183 ff.; Ter. *And.* 236 ff.)

It is evident, however, that a man of mature years, unhampered by obligations of kinship, could often choose his wife.

Thus, according to a passage from Isaeus (2, 4, ff.), a certain Menecles, already advanced in years, asks for the hand of the speaker's younger sister, and receives the girl in marriage from her brothers.

Considering now the question of marriage from the woman's standpoint, we observe that she had far less independence in the choice of a life partner than the man. From the times of Homer downward the right of the father to give his daughter

**The Father
gives the
Daughter in
Marriage.**

in marriage seems to have been unquestioned* (*Od.* 2, vss. 53, 54, 113, 114; 15, vss. 16, 17; [Dem.] 46, 18; Isae. 9, 29). According to a passage from the 8th oration of Isaeus (§8), we observe that when the first husband died the father chose a second husband for his daughter. An instance is recorded by Demosthenes (41, 4) which illustrates still more strikingly the parental authority in this regard; here we observe that the father, after having given his daughter in marriage, quarrels with his son-in-law, takes away the latter's wife, and gives her to another.

If a father whose daughter had neither been betrothed nor married felt that his end was approaching, he often selected the girl's future husband for her, as in the case of Demosthenes' father, to whom reference has already been made (*Dem.* 27, 5; 28, §§15, 16). If, however, the father was not living, and had neither betrothed the girl nor named a husband for her in his will, the brothers, either individually or collectively, gave the sister in marriage (*Lys.* 13, 45; *Isae.* 3, §§3, 4; 2, §§4 ff.); [Dem.] 40, §§7, 19; *Dem.* 44, §§9, 17). Pseudo-Demosthenes (46, 18) cites the law which provides that the father, or the brother (*ἀδελφὸς ὁμοπύττωρ*) shall betroth the girl, and that otherwise the responsibility for the betrothal shall

* A passage from the *Alcestis* of Euripides (vs. 317) in which the dying heroine says to her daughter, οὐ γὰρ σε μήτηρ οὔτε νυμφεύσει ποτέ, can scarcely be regarded as affording evidence that a Greek mother ever betrothed or gave a daughter in marriage, even though we assume that Euripides is here reflecting the feelings of his own time. The passage rather would indicate a mother's eager interest in her daughter's future welfare; and it would also indicate that the influence of a Greek wife in connection with her children's interests was sometimes greater than is generally acknowledged.

devolve upon the paternal grandfather ; further, that
Brothers in case none of these are living, the woman's guard-
betroth ian—her κύριος—is responsible for her betrothal and
Sisters. marriage * (cf. Hermann, *Political Antiquities of Greece* [Ed. 1836, E. T.], pp. 232-233 ; Plato, *Laws*, 774 E.). Naturally, the woman's κύριος was often her nearest male relative (Plato, *loc. cit.*), as, for example, an uncle (Isae. 5, 26) or a cousin (Id. 1, 39), or possibly a kinsman who was himself disinclined to wed the heiress, and was accordingly obliged to give her in marriage, with a dowry† (*Ibid. loc. cit.*). Sometimes the responsibility for the betrothal apparently devolved upon the step-father (see Hermann, *loc. cit.*). Isaeus records an instance in which a certain Apollodorus, about to depart from Athens, makes a will leaving his property to his half-sister, and naming her future husband (*Or.* 7, 9).

Instances are recorded in which the husband, feeling that his end is approaching, betroths his wife to another. Thus, in Demosthenes 27, 5, the father of the
A Dying Husband orator, realizing that his death is near,
Betroths his Wife. betroths his wife to one of his nephews (cf. Id. 28, §§15-16). A somewhat similar instance, in which an Athenian selects the future husband for his prospective widow and appoints him by will, occurs in Demosthenes 36, 8 (cf. 45, 28).

The ἐγγύησις—the formal affiancing or betrothal of a woman by her guardian to the man whom she is to marry—is to be

* The law, according to the passage cited, reads as follows: Ἦν ἂν ἐγγυήσῃ ἐπὶ δίκαιοις δάμαρτα εἶναι ἢ πατὴρ ἢ ἀδελφὸς ὁμοπάτωρ ἢ πάππος ὁ πρὸς πατρός, ἐκ ταύτης εἶναι παῖδας γνησίους. εἰ δὲ μηδεὶς ἢ τούτων, εἰ μὲν ἐπὶ κληρὸς τις ἢ, τὸν κύριον ἔχειν, εἰ δὲ μὴ ἢ, ὅτῳ ἂν ἐπιτρέψῃ, τοῦτον κύριον εἶναι. The meaning of the first sentence is of course perfectly clear ; with regard to the ambiguous language in which the second part of the statute is expressed, and the controversy to which the document has given rise, see Wyse's remarks (*Commentary*, pp. 285 ff.).

† It would seem that a woman's κύριος was sometimes her husband. Thus, in the 3d oration of Isaeus, a woman named Phile is represented in court by her husband ; and according to Demosthenes (27, §§55, 56 ; 29, §§47, 48), the faithless guardian Aphobus would have become κύριος of the orator's mother, had he married her in accordance with the wishes of Demosthenes' father. The question is somewhat complicated, however ; see Wyse's discussion of the point at issue (*Commentary*, pp. 284 ff.).

distinguished from the process of law—the *ἐπιδικασία*—in accordance with which the nearest of kin claims the *ἐπίκληρος* in marriage. The *ἐγγύησις* is not, of course, to be understood as equivalent to a modern betrothal, in which

The Betrothal. a man and a woman, upon agreement of marriage, plight their troth to one another, independently of others. The *ἐγγύησις*, or formal marriage contract, did not necessarily involve the consent of the woman or even her presence; nothing in our records indicates that either was requisite; the contracting parties immediately concerned were the woman's guardian and her intended husband, and the woman herself was practically an object of barter between the contracting parties. The ceremony—except in the case of the *ἐπίκληρος*—was considered an indispensable prerequisite for a valid and honorable marriage; without it, the marriage would practically be regarded as a concubinage, and the children would be *νόθοι* (see Meier & Schömann, *Der attische Process*, p. 507; Schömann, *Antiquities of Greece*, p. 356). The law relating to the betrothal is quoted by Pseudo-Demosthenes, 46, 18 (see p. 56, foot note, where the document is cited in connection with another topic; cf. [Dem.] 44, 49; Hyp. 5, 16).

In the case of the heiress, the *ἐπιδικασία*—wherein the court determined which particular relative should become the *κύριος* of the woman, and thereby gain the right to wed her and receive with her the estate—in this case the *ἐπιδικασία* apparently took the place of the *ἐγγύησις* as an indispensable adjunct to the marriage* (see Gilbert, *Greek Constitutional Antiquities*, p. 189; Wyse, *Commentary*, pp. 289, 501).

*Hruza, in the first volume of his work entitled *Beiträge zur Geschichte des griechischen und römischen Familienrechtes* (see especially pp. 5 ff., 18 ff.), denies that the *ἐγγύησις* was a betrothal or affiancing, and that the legitimacy of Athenian children could have depended merely upon a ceremony preparatory to the married state; he even questions whether betrothals, as such, existed in Attica. He thinks that *ἐγγύησις* is comparable with the *consensus nuptalicius* of the Roman law; that it was the first and probably the most important ceremony of the wedding day, constituting the beginning of marriage, and usually coming immediately before the wedding festivities proper. He thinks that in the case of the *ἐπίκληρος*, the *ἐπιδικασία*, taking the place of the *ἐγγύησις*, immediately converted the girl into a lawful wife, notwithstanding any

It cannot be denied that the Athenian marriage was far from being an ideal institution. When, by reason of the secluded life of the Athenian girl, there was little or no previous acquaintance on the part of bride and groom; when a free choice was rarely permitted, and when arrangements were frequently made by third parties—sometimes, apparently, by professional match-makers (Aristoph. *Clouds*, 41, 42; Xen. *Mem.* 2, 6, 36); when the marriage ideals—as we shall subsequently observe—were often ignoble; when the men

Gloomy Aspects of the Athenian Marriage. of Athens were surrounded by such alluring forms of vice, and prohibited by social conditions from seeking companionship in the society of virtuous and cultivated women of their own class; when, even after marriage, there was evidently very little genuine companionship between husband and wife, partly because the woman's early training

extreme youthfulness on her part. Hruza's views are scarcely tenable. As an illustration of the difficulties of his position, we may cite the case of Demosthenes' father, who is described as betrothing—*ἐγγυῶν*—his five-year-old daughter to one Demophon, with the stipulation that the latter should wed the girl when she had reached the marriageable age (Dem. 28, 15). Obviously this could mean "betrothing" and nothing else, but Hruza offers the far-fetched interpretation that the girl was already by this act made a wife, defining her position as *matrimonium legitimum sed non consummatum*, according to the principles of the canon law, and finding analogies in certain Roman marriage usages under the Empire. Wyse has an admirable discussion of this topic, and concludes by remarking: "The reply to Hruza's legal refinements is that the presumptions of a Roman jurist are out of place in a discussion of Athenian law. That the validity of a betrothal should determine the legitimacy of the issue of a marriage ceases to seem amazing as soon as we free ourselves from modern conceptions of the nature of marriage, and especially from the principle of the Digest '*consensus facit nuptias*.' The origin of the Greek *ἐγγύησις* lies in marriage by purchase. . . . The Athenian legislator did not act irrationally in taking as the mark of a lawful marriage the validity of the contract between the parties rather than the formalities which attended delivery of the object of the contract. . . . As at Athens, so in the ancient law of Germany and Scandinavia the betrothal is a contract between the suitor on the one side, and the father, brother, or guardian of the maiden on the other, perfectly distinct from the wedding, but nevertheless an indispensable condition of a valid marriage" (*op. cit.* pp. 292-293).

had not fitted her to be a man's companion, and partly because the husband's chief occupations, interests, and amusements lay outside the home; and, finally, when infidelity to the marriage vow * was not infrequent,—there can be little doubt

* An instance of the most flagrant and deliberate disregard of family obligations is found in the 6th oration of Isaeus (§§18 ff.), wherein is briefly set forth the pathetic story of an aged man named Euctemon, to whose unfortunate history reference has already been made. Euctemon, after a long, honorable, and successful career, leaves a happy home and a devoted wife and family, and takes up his abode with an unprincipled freedwoman of his, named Alke, whose husband had deserted her. Euctemon, after having conferred many favors upon the woman, finally, at her instigation, proposes to enroll one of her sons in his phratry, under his own name; but his own son, Philoctemon, quite naturally objects to such a gross infringement of his rights. To overcome the objection of his son, the infatuated Euctemon threatens to marry still another woman,—in fact, actually betroths himself to her (§22)—and proposes to give preference to the children that may be born of this new marriage, and thereby deprive Philoctemon of a part of his inheritance. Philoctemon, unspeakably humiliated by his father's behavior, acquiesces, in order to avoid further scandal. Euctemon then breaks his engagement with the third woman mentioned (§24), and enrolls the son of Alke in his own phratry, as he had before attempted to do—a highly discreditable proceeding for all concerned. Ultimately, after having impaired his health, humiliated his family, and hopelessly disgraced and impoverished himself, the unfortunate old man dies at a great age, under peculiarly sad circumstances. There is nothing in Isaeus' narrative to prove that, during the time of his infatuation with Alke, Euctemon had formally and permanently divorced his wife, although he had unquestionably separated from her for the time being (see *Der attische Process*, p. 502); and, in fact, that portion of Isaeus' narrative (§§39-41) which describes the attempts of the heart-broken woman and her daughters to take charge of the deceased, and pay the last rites, strongly indicates that Euctemon's true and original wife was still his lawful spouse. Nevertheless, a number of scholars insist that a formal divorce must have taken place, as Jebb (*Attic Orators*, II, p. 344), Schömann (*Commentary on Isaeus*, pp. 315, 334), Müller (*Untersuchungen zur Geschichte des attischen Bürger- und Eherechts*, Jahrb. f. cl. Philol. 1899, Supplementband 25, pp. 698 ff.), Zimmermann (*De Nothorum Athenis Condicione*, p. 17), and Wyse (*Commentary*, p. 495); and the latter very properly raises the question whether, in view of Euctemon's having "betrothed himself to the sister of Democrates in order to spite Philoctemon" (§§22-24), it is conceivable that the woman's κίριος would have deliberately betrothed her to a man already married. Gilbert (*Greek*

that, under such circumstances, unhappy marriages were the rule rather than the exception with the Athenians. It is, perhaps, difficult for us to realize that the element of romance and the higher spiritual and intellectual companionship which we moderns naturally associate with marriage, were practically unknown to the Athenians; and yet we have abundant evidence that such was actually the case. The average Athenian marriage seems to have rested upon a physical basis, and upon nothing more (see Plato, *Symp.* 181 B ff.). Even in the somewhat idealized picture of a happy marriage presented to us by Xenophon in his *Oeconomicus*, no intellectual sympathy whatever between husband and wife is apparent; the wife's paramount duty, as impressed upon her by her mother, is "to be modest"—σωφρονεῖν (see Chap. 7, §14); and the question of affection between husband and wife is clearly one of minor importance.

Medea, in the well-known play of Euripides which bears her name, speaks feelingly of the unenviable position of the Greek married woman; and remembering Euripides' tendency to transfer to the heroic age the feelings and situations of his own time, we may regard the passage referred to as describing, in a fairly accurate manner, the position of the average Athenian wife in the age of the orators. Medea says (vss. 230 ff.): "Of all beings that have life and intelligence, we women are the most wretched. For, in the first place, we are compelled to purchase husbands with large sums of money and

Constitutional Antiquities, App. p. 455) thinks that while Euctemon was still married to Philoctemon's mother, Alke was Euctemon's concubine; and Buermann (*Drei Studien auf dem Gebiet des attischen Rechts*, *Jahrb. f. cl. Philol.* Supplementband 9, 1877/8, pp. 571 ff.), also denying that any divorce had taken place, finds in the passages referred to, proof of the existence at Athens of legitimate concubinage. Hruza (*op. cit.* I, p. 28; II, pp. 31, 44, 48 ff.), maintaining, as Gilbert does, that in the case of the sister of Democrates Euctemon was deliberately contemplating bigamy, presents the astonishing view that in this speech of Isaeus we have evidence of the existence at Athens of polygamy, which although not sustained by public opinion, was not actually illegal! Whatever the true explanation of the situation, it is evident that Euctemon pursued his outrageous course openly, and that there is no redress for his unfortunate family.

to accept them as our masters. . . . And herein is the direst peril, namely, to receive a husband either as an evil or as a blessing; for divorce is not honorable for women, nor is it possible to repudiate a husband. And when the wife comes into the midst of manners and customs strange to her, she has need of the gift of divination,—unless she has been taught at home,—in order to know how best to treat her consort. And if, in case we have worked out these problems well, our husbands dwell with us, and do not bear the yoke with violence, enviable is our life; otherwise, we must needs die. For when a man is displeased with his environment in the home, he goes out and puts an end to the vexation which he feels in his heart by betaking himself to some friend or associate; but we must look to our husbands alone.” And these words find an echo in the language which Xenophon, in the *Oeconomicus*, has placed in the mouth of the young wife of Ischomachus, when she says to her husband: *τίς δὲ ἡ ἐμὴ δύναμις; ἀλλ’ ἐν σοὶ πάντα ἐστίν* (Chap. 7, §14).

As a natural consequence of the unhappiness which too often characterized the Athenian marriage, we find that separation and divorce—rare, apparently, in the Homeric age—had become frightfully common in the times of the orators. And the warning of Plato, who saw the dangers inherent in the Athenian social system, and urged that young men and women be more frequently permitted to meet one another, in order that less indifference and enmity might arise in the married life, fell, apparently, upon deaf ears (see *Laws*, 771 E ff.).

A striking illustration of the lightness with which the marriage bond was dissolved is found in a passage from Demosthenes (41, §§3 ff.), wherein we observe that a father, having adopted his wife’s brother, gives to him his youngest daughter in marriage; and that ultimately the father quarrels with his son-in-law, takes the latter’s wife away from him, and gives her to another. In the Demosthenic oration *Against Neaera*, a husband casts away the wife with whom he has lived for nearly a year, because he finds himself mistaken in regard to her parentage, and realizes that she is not a free citizen woman of Athens (§§82 ff.). According to Pseudo-

Andocides (§14), an injured wife takes the initiative in accomplishing the separation; here Alcibiades is represented as introducing disreputable women into his home, and scandalizing his wife, who thereupon appears before the archon and files her statement, looking to a divorce. Even the conduct of the great Pericles was not above reproach; for we read in Plutarch (*Pericl.* 24), that when the distinguished statesman perceived the development of uncongeniality between himself and his wife, he proceeded to give her to another, in accordance with her wishes, and then took unto himself Aspasia. And this extraordinary method of terminating a marriage seems, unfortunately, to have been resorted to not infrequently by the Athenians. I have elsewhere referred to the narrative found in Isaeus' 2d oration (§§4 ff.), wherein we read of an

Husbands give their Wives to Others.	aged man who has married a youthful wife, and who eventually concludes that, by reason of his years and his childlessness, a separation is desirable. The husband now virtually gives his wife to another; for he recom-
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mits her to the charge of her brothers, and with the full approval, apparently, of her former husband, she is given in marriage to a second husband.

An exceedingly frank passage occurs in Demosthenes (36, §§28, 29), which shows, even more clearly, that the practice of giving a wife to another was by no means an unusual one. The speaker says: "Socrates the banker, . . . having gained his freedom from his master, . . . gave his wife to Satyrus, who previously had belonged to him. Socles, another banker, gave his wife to Timodorus, who is still living. . . . And it is not only here, men of Athens, that people engaged in this line of occupation take such action; but in Aegina Strymodorus gave his wife to Hermaeus, his own slave, and again, upon her death, he gave him his daughter. And many such persons one might mention." And the speaker proceeds to justify such action on the ground of expediency and financial necessity—certainly a melancholy commentary on Athenian standards of marriage.

Apart from this extraordinary custom of voluntarily giving one's wife to another, we find that occasionally the inheritance laws intervened to terminate a marriage; that too often there was no security even in an apparently happy marriage,

and that circumstances might arise under which the wife could be torn from her husband, and compelled to enter new marriage relations (see *Der attische Process*, p. 616). Isaeus says (3, 64): "And with reference to women who have been given in marriage by their fathers . . . if the father dies without leaving them legitimate brothers, the law ordains that they may be claimed in marriage by the next of kin, and many husbands have already been deprived of their wives" (in this manner).^{*} And again, in Isaeus 10, 19, the next of kin, who unlawfully possesses the inheritance, and are about to be sued by the husband of the lawful heiress, threaten to take the man's wife from him and claim her for one of themselves, unless the matter is dropped. The threat prevails, and the husband, to save his wife, is forced to relinquish the entire property to the scoundrels (cf. Dem. 43, 15).

Instances are also recorded in which a husband, wishing to wed an heiress related to him, leaves his wife and forms a new marriage. Thus, in the 57th speech of Demosthenes (§41), we read: "Protomachus was poor, but becoming entitled to marry a wealthy heiress, and desiring to give my mother away, he persuades my father Theuritus, who was an acquaintance of his, to take her; and my mother was given in marriage to my father by her brother." (Cf. Dem. 30, Hypoth. §1.)

Such a violent termination of the marriage relations may be regarded as one of the direct results of the Athenian inheritance system, carried out to its logical conclusion. The property must be kept within the family, or else the State would suffer; the ancestor worship must be continued by the heir, otherwise the gods would become estranged, and would proceed to afflict not only the family, but the State. The rights and sacred affections of the members of the family are of minor importance; the individual and the family live chiefly to perpetuate the religious observances and serve the State.

^{*} Of course an Athenian woman, whether married or single, was not an *ἐπικληρος* even after the death of her father, brother, and paternal grandfather, provided a dead brother had left descendants (see Wyse, *Commentary*, p. 286).

Sir William Jones speaks of the right of the next of kin to wed the heiress, even though she were already married*—a right “so firmly established that even the act of her own father could not supersede it.” Our distinguished authority characterizes the legal regulations which insisted so strenuously that estates should forever remain in the family of the deceased as “the most iniquitous and intolerable of all the Athenian laws, an odious remnant of the ancient institution, which Solon in part abolished” (*Works*, Vol. iv, p. 210).

In connection with the subject of Athenian marriage, we observe in one direction a great injustice on the part of society—and an injustice, by the way, not confined to the Athenian state; for while the married woman must conform rigidly to the requirements of conventionality, the husband may overstep the bounds of propriety almost at will, and may utterly ignore the obligations of honor and virtue, unrestrained by law or the conventions of society. The following passage from Plautus’ *Mercator* seems clearly to reflect the feeling existing at Athens (vss. 817-823):

**Double Moral
Standard of
the Athenians.**

Ecator lege dura uiuont mulieres
Multoque iniquiore miserae quam uiri.
Nam si uir scortum duxit clam uxorem suam,
Id si rescuiit uxor, inpunest uiro:
Vxor uiru(m) si clam domo egressast foras,
Viro fit causa, exigitur matrumonio.
Vtinam lex esset eadem quae uxorist uiro.

* Wyse thinks it a debatable question whether a woman who had become the mother of a legitimate son did not thereby cease to be subject to the perils and responsibilities of the heiress (*op. cit.* pp. 334, 351, 352). The only passages from Isaeus which bear upon this question (3, 64; 8, 31; 10, 19), convey to us the distinct impression that marriage and the birth of children did not release a woman from the cruel necessity of leaving her husband and forming a new marriage with the next of kin, unless, of course, she and her husband relinquished all claims to the inheritance (as in 10, 19). A different impression is derived from the 6th oration, wherein we observe that Euctemon had left two daughters, one a widow with a daughter, the other a married woman with two sons. Nothing is said of any claim upon the hand of the married daughter, but the widow is claimed by a kinsman as *ἐπικληρος* and *ἐπίδικος* (§§46, 51, 57, 58). It is unfortunate that no direct statement on this point by Solon has come down to us.

The passage cited illustrates not only the double moral standard which prevailed at Athens, but also the startling ease and informality with which separation or divorce was accomplished. Pollux, it is true, remarks, "Just as marriage is contracted by law, so also it is annulled" (3, 7); but all the evidence at our disposal leads us to conclude that the law was at all times exceedingly indulgent towards separation and divorce. Becker

(*Charicles*, p. 497) thinks that no formalities

Divorce easily accomplished. whatever attended the separation; that the husband simply sent away the wife (*ἀπόπεμψις*) or that the wife left her husband (*ἀπόλειψις*).

The authors of *Der attische Process* (p. 513) are of the opinion that separation or divorce could be accomplished without legal process, if both parties were agreed in the matter, and if there was no controversy respecting the dowry. We have evidence, however, that when the wife sought a divorce it was necessary for her to give a written notice to the archon, as in the case of Alcibiades' wife, mentioned above (cf. Isae. 3, 78; Dem. 30, §§17, 26; Phot. *s. v.* *σίου δικη*). Plutarch informs us that the wife was required to appear before the magistrate in person, in order to deposit τὸ τῆς ἀπολείψεως γράμμα (*Alc.* 8). Thus, we observe that the divorce proceedings on the part of the wife were accompanied by troublesome formalities, while the *ἀπόπεμψις* on the part of the husband was attended by no legal ceremony; the husband simply sent back his wife to her κύριος with the dowry (see *Der attische Process*, p. 511). Furthermore, we have evidence that divorce and separation were regarded as disgraceful to women; thus, Medea is represented by Euripides as saying, οὐ γὰρ ἐνκλεεῖς ἀπαλλαγὰς γυναιξίν (*Med.* 236-237; cf. Stob. *Tit.* 73, 1).

We are informed that the woman who had proved unfaithful to her marriage vow was driven from her husband's home, and debarred from places of public worship ([Dem.] 59, §§86, 85). The marriage, under these circumstances, was of course annulled (see Becker, *Charicles*, p. 497; [Dem.] 59, 87); and, indeed, the husband who persisted in living with a wife whose infidelity to the marriage vow had been proved, incurred ἀτιμία (Schömann, *Antiquities of Greece*, p. 518). Lysias in his 1st oration records an instance in which an Athenian hus-

band discovers that his faithless wife has been secretly harboring a lover; whereupon he summons witnesses and slays his wife's paramour (§§26, 27); and we learn that, under such circumstances, the slayer could not be adjudged guilty of murder (Id. 13, 66; 1, 30; Plut. *Sol.* 23).

In connection with the subject of marriage, the status of the Athenian widow requires a brief consideration; and it is evident that she was often subject to great hardships. In Isaeus 6, 51, a gloomy spectacle is presented to us; we observe that the widow of a certain Chaereas will be at the absolute disposal

of the false claimants, if they win the lawsuit; otherwise, if proved to be the rightful heiress, she is to be given again in marriage according to law * (*Ibid.* §4). The melancholy picture presented to us by Demosthenes, of the dying husband who be-

troths his prospective widow to his nephew, may again be cited here (Dem. 27, 5; cf. 36, 8). In Isaeus 8, 8, the speaker's mother is given in marriage by her father; and after her husband's death, the father gives her in marriage again. In Lysias 32, 6, Diodotus arranges for the dowry with which his wife is to marry again, in case of his death; and after the death of Diodotus, Diogeiton, the brother of the deceased, gives the widow in a second marriage (*Ibid.* §8). In Demosthenes' 40th oration (§§6, 7), the brothers of the widow give her in marriage a second time, with a dowry (cf. Isae. 9, 27). A striking and dramatic picture of the hardships encountered by a young Athenian widow is drawn by Becker (*Charicles*, pp. 164 ff.), to which the reader is referred.

It is evident that the widow was usually expected to marry a second time (Dem. 29, 26), either in accordance with the testamentary arrangements of her husband, or in conformity with the wishes of her guardian; that her own wishes in the matter were not likely to be regarded, and that constraint was often exercised upon her (see Becker, *Charicles*, p. 478).

If an Athenian died, leaving no children, his widow regularly returned to her own family (Isae. 8, 8; *Der attische Process*, pp. 519 ff.). If there were children by the marriage,

* Apparently, however, Isaeus is here attempting to mislead the judges by confusing the case of Androcles with that of Chaerestratus (see Wyse, *Commentary*, p. 539).

the widow was permitted to remain in the house of her husband; in this case she came under the authority of her children's guardian, while their minority lasted ([Dem.] 42, 27; 46, 20). If she expected to be delivered of a child, and so declared herself, she might also remain; in which case the archon was expected to guard her interests ([Dem.] 43, 75; 'Αθ. Πολ. 56, 7). And even when there were children, the widow was privileged to return to the house of her κύριος ([Dem.] 40, 6).

The subject of the dowry forms a somewhat important topic in connection with Athenian marriage. The custom of giving a dower was an exceedingly ancient one, and certainly antedated the time of Solon (see *Charicles*, p. 480); thus, we

have a number of instances in Homer in

The Dowry. which the suitor presents wedding gifts to the bride or to her parents, after the fashion of the

times (*e. g.* *Il.* 16, 178; 22, 472; *Od.* 16, 390-391; 21, 160-161).^{*} The Homeric practice of bestowing gifts upon the bride's parents—forming a striking contrast with the later custom in which the father or guardian of the bride bestows the dowry—is significant as revealing the original character of the dowry, which was unquestionably the purchase money paid by the suitor for his bride. For we cannot lose sight of the thought that the woman in primitive times was regarded as property, and that property considerations carried the utmost weight in connection with primitive marriage (see Keller, *Homeric Society*, pp. 200, 214; Lubbock, *Origin of Civilization*, p. 126). That the primitive dowry was simply a purchase sum, by means of which the man bought a wife from the woman's father, is recognized by Aristotle, who

The Dowry alludes to the practice of buying a bride and **originally** calls the custom "barbaric" (*Pol.* 2, 8, 19).

Purchase Money. Medea, it is true, complains that her sex had to purchase husbands with large sums of money (*Eur. Med.* 230 ff.); but here Euripides is

^{*} The *ἐθνα* referred to in *Od.* I, 277, and 2, 196, which at first glance would seem to constitute an exception to the Homeric custom of presenting gifts to the bride's parents, are probably to be explained as wedding presents made by the bride to those of her own household (see Liddell & Scott, *s. v.* *ἐθνον*).

clearly transferring to the heroic age the practice of his own time. Even the dowry of historical times, the *προίξ* or *φερνή*, which was regularly settled upon the bride by her father or guardian when she was affianced, may, perhaps, be regarded as originally the purchase sum by which the father bought a husband for his daughter; or, such a portioning of the bride may have implied originally a return of the price paid under the earlier system (see Westermarck, *History of Human Marriage*, p. 405).

It is hardly to be supposed, however, that the practical Athenians of the age of Pericles would have clung to the dowry merely because it symbolized an ancient and honored custom. The dowry of historical times had several distinct and practical uses. It was often intended as a settlement for the wife in case of the termination of the marriage, whether by the husband's death or by divorce (see Westermarck, *op. cit.* p. 411). We have already noted that the Athenian woman, during the times of the orators, was in a condition of constant tutelage, with practically no independent property rights; as

we shall subsequently observe, she had no

Objects and Advantages of the Dowry. claim whatever even upon her husband's property; evidently, then, the dowry was likely to prove of the utmost importance for her welfare and comfort, as her only means of support in case she was left destitute. The dowry did not, it is true, become absolutely and invariably the woman's property; in case of divorce, or of the death of her husband, the dowry would be placed in the hands of the woman's guardian, who was required to support her from it, or with it to give her in marriage again (Isae. 2, 9; Dem. 27, §§15, 17; 29, §§33, 26; Meier & Schömann, *Der attische Process*, pp. 525 ff.). If, again, she had children, and chose to remain in the house of her husband, the dowry became her children's property ([Dem.] 42, 27; 46, 20). But, as against the woman's guardian, her husband, or his creditors, the dowry was absolutely her own* (see [Dem.] 59, 52; Dem. 27, 17; [Dem.] 40, 6); the

* The wife's dowry was forfeited, however, in case the woman, by reason of immoral behavior, had given a legal ground for separation (Schömann, *Antiquities of Greece*, p. 517).

husband only enjoyed the usufruct of his wife's property, and was sometimes required to mortgage property as security for eventual repayment (*Der attische Process*, pp. 518-519; Wyse, *Commentary*, p. 296; Harpoc. s. v. ἀποτιμηταί); and the husband who divorced his wife was required to restore the dowry, or pay interest ([Dem.] 59, 52; Isae. 2, 9). Demosthenes maintains that interest is by right due his widowed mother from the dishonest guardian Aphobus, who had taken possession of the dowry left for the widow by the speaker's father, but had neither married her, nor restored the dowry, nor granted maintenance (Dem. 27, §§15, 17; 29, 33). Many passages from the orators might be cited, illustrating the solicitude with which the Attic law guarded the woman's rights with respect to the dowry (e. g. cf. Dem. 30, Hypoth., §§7, 26 ff.; Isae. 3, 78).

Again, the dowry had an important bearing on the social position of the Athenian wife; and, as the giving of a dowry was usually considered indispensable to an honorable marriage, so the omission of the dowry was likely to reflect seriously on the woman's character, lower her social standing, or subject her to the danger of capricious divorce or ill usage. There can be no doubt that the dowry was likely to contribute to the permanency of the marriage, since it never became the husband's property, and consequently returned with the woman to her guardian in case of divorce (see Jevons, *Manual of Greek Antiquities*, pp. 555-556). We gather from Isaeus that a husband could put away his wife whenever he chose, when no dowry had been given and duly acknowledged; that the dowry was virtually regarded as a safeguard to prevent husband and wife from separating; further, that in the case of a marriage with a woman of doubtful reputation, the giving of a large dowry tended to establish her in good standing with the community (Isae. 3, §§36, 28, 29; cf. [Dem.] 40, §§20, 26). Conversely, we learn that not merely to withhold a dowry, but to give a woman in marriage with a dowry disproportionally small, was likely to reflect unfavorably upon her (Isae. 3, §§49, 51).

We are not, indeed, to regard the dowry as a legal requirement to the same extent as the formal betrothal or affiancing of the woman—the ἐγγύσις—but rather as an ancient usage

that was rarely disregarded (see *Charicles*, p. 480; cf. Gilbert, *Greek Constitutional Antiquities*, p. 189); and it does not appear that the omission of the dowry entailed the same civil disadvantages which were involved in the omission of the *ἐγγύησις* (see Becker, *loc. cit.*). We have no right to conclude that the omission of the dowry necessarily implied a concubinage (*Der attische Process*, pp. 513-514). At the same time there can be no doubt that, as Wyse observes, "the freedom of divorce allowed by Athenian law made the position of a wife without a dowry very precarious" (*Commentary*, p. 244). Consequently we find that respectable Athenians were always ready to make sacrifices to protect daughters or sisters against ill usage and arbitrary divorce, by providing them with dowries commensurate with their social position—a large dowry usually accompanying the marriage of the daughter of a wealthy family, and vice versa (see Wyse, *op. cit.* p. 243). Although daughters had no rights of succession by the side of sons, still a father sometimes settled a dowry on his daughter by will (Lys. 32, 6). Brothers were under obligation to provide their sisters with suitable dowries, and "not suffer them to grow old unmarried" ([Dem.] 45, 74; Lys. 13, 45; Dem. 30, 33; Hyp. 2, 12). Sometimes brothers coöperated in the performance of this duty ([Dem.] 40, §§6-7, 19; 44, 9). Sometimes, again, rich citizens joined in portioning the sisters or daughters of those in humble circumstances, because of the respectability attaching to a married woman with a dowry (Lys. 19, 59). Plutarch records an instance (*Aristid.* 27), according to which the State took in charge the betrothal of a daughter of Aristides, and gave her a dowry from the public funds. We are distinctly given to understand that no one was likely to marry a portionless girl (Dem. 45, 74; [Dem.] 59, §§8, 112, 113); and it would seem that a woman without a dower was not likely to gain an honorable position in a household (*Charicles*, p. 131). In Lysias 19, 15, we read of the *κύριος* who is averse to giving the speaker's sisters in marriage to wealthy men who are willing, notwithstanding the prevalent prejudice, to take them without a dowry. Isaeus (3, 29) and Demosthenes (40, 20) speak of the *ἀπρῆκος* in a manner which clearly distinguishes her from the more fortunate woman who

receives a dowry—the *ἐπίπροικος*. And that marriage without the dowry was rare is shown by the cases in which the Greek orators argue for or against the existence of lawful marriage, on the ground of the existence or the non-existence of a dowry (e. g. cf. Isae. 3, 8; 8, §§8, 9). Sometimes, it is true, Athenian speakers dwell upon marriage with portionless girls as virtuous acts; thus, an instance occurs in Lysias (19, 14), in which the speaker alludes to what was apparently a strictly honorable marriage with an *ἀπροικος*. But the other side is clearly seen in several passages from the *Trinummus* of Plautus; here a certain Lesbonicus is greatly disturbed at the thought of his sister being wedded by the rich Lysiteles, because, without a dower, she will practically enter upon a state of concubinage (see *Trin.* 374 ff., 605, 612, 688 ff.).

In general, then, we may conclude that the giving or withholding of a suitable dowry was regarded as a fairly satisfactory criterion as to whether the relations existing between an Athenian man and woman constituted marriage in the highest sense of the term. If there was no dowry, the children were likely to be regarded as *νόθοι* and the mother as a concubine. If, on the other hand, the dowry had been given and properly acknowledged, the woman was evidently entitled to all the conjugal rights (see *Der attische Process*, p. 514). And it is by no means improbable that the provision frequently made by the State for destitute maidens prevented many young women of good Athenian parentage from sinking to the level of the concubine (see Plut. *Aristid.* 27).

It is interesting to note, in connection with this topic, that Aristotle disapproved of large dowries, as detrimental to the best interests of the State. Thus, in the *Politics* 2, 9, 15, in criticising the Spartan polity, he maintains that the large dowries given among the Spartans were largely responsible for the inequality of their possessions, for the diminution in the number of their fighting men, and for the female ownership of so much land. Solon is said to have introduced a law to restrict the amount of the *φεμνή* which the bride brought to her husband (Plut. *Sol.* 20), the purpose of which was apparently to maintain the husband's independence, which might have been endangered had too large a dowry accompanied the bride. Plato approves the purposes of this law (*Laws*, 774 C).

Another reason for the prejudice of the Athenians against large dowries is undoubtedly to be found in the wish to maintain the inheritance rights of the sons; for while, on the one hand, the Athenian law undertook to protect daughters against neglect on the part of their brothers, it strove, on the other hand, to prevent the father from impoverishing the sons by the giving of extravagant dowries (see Wyse, *op. cit.* p. 242).

The question of lawful concubinage at Athens is exceedingly perplexing, and has occasioned much controversy. The problem is apparently insoluble, and although the literature on the subject is extensive, a very brief and general presentation of the case is the most that the limitations of this work will permit.

**Concubinage—
Difficulties of
the Problem.**

That concubinage existed at Athens to a considerable extent cannot be doubted. In a passage from Lysias (I, §§30-31) the law is mentioned which authorizes an injured husband, under certain circumstances, to slay, with impunity to himself, his wife's paramour; and the speaker adds that the same penalty may be inflicted in behalf of concubines, although they are "less valuable" than wedded wives. So, also, in Demosthenes (23, 53) a law is cited relating to the protection of wives, concubines, and others: 'Εάν τις ἀποκτείνῃ . . . ἐπὶ δάμαρτι ἢ ἐπὶ μητρὶ . . . ἢ ἐπὶ παλλακῇ ἣν ἂν ἐπ' ἐλευθέροις παισὶν ἔχῃ, τούτων ἕνεκα μὴ φεύγειν κτείναντα. But, as Wyse points out (p. 319), the clause in this law referring to concubines is evidently to be interpreted as also including in its operation free foreign women, "until more cogent proof is offered that ἐλεύθερος cannot in this place bear its usual sense, and must signify something else, *e. g.* 'with full civic rights.'" Gilbert (*Greek Constitutional Antiquities*, p. 190) also calls attention to the distinction to be observed between ἐλεύθερος and γνήσιος, and thinks that the reference made by the speaker in Demosthenes is to the class of mistresses described in Isaeus 3, 39. According to the authors of *Der attische Process*, however (p. 501), the passages from Lysias and Demosthenes indicate, at least, that concubinage had the sanction of law.

An interesting passage with regard to the concubine is found in the Demosthenic speech *Against Neaera* (§122),

where we are told that the *παλλαγή* is to render daily personal service to her lord. We are not, however, to infer from this that the concubine habitually occupied a menial position; the law relating to the protection of concubines, cited above (Dem. 23, 53), would indicate the contrary.

We read in Diogenes Laërtius (2, 26), that in the time of Socrates a *ψήφισμα* made it lawful *γαμῆν μὲν ἀστὴν μίαν, παιδοποιεῖσθαι δὲ καὶ ἐξ ἑτέρας*. Becker views this statement with suspicion (*Charicles*, p. 474); and Hermann (*Political Antiquities of Greece*, pp. 232, 233) so far from regarding this as an evidence of the existence of lawful concubinage, thinks that the passage indicates a remedy provided against concubinage by the Attic law.

Meier & Schömann (*Der attische Process*, p. 529) see a case of concubinage in the 1st oration of Andocides (§§124 ff.), where Callias, having married the daughter of Ischomachus, afterwards tires of the woman, and marries her mother. I hesitate to accept this view, for it seems to me that Andocides would scarcely have ventured thus to discuss and denounce the conduct of Callias, if it had had the sanction of law. From what is known of Andocides, it seems probable that he regarded this as a particularly choice scandal, and one that was calculated to array the sympathies of the hearers against Callias. Aside from this, it is impossible to believe that so shocking a state of affairs as that mentioned by Andocides could have been tolerated by Attic law or society under the guise of concubinage, even though all the evidence at our disposal indicates that extraordinary looseness existed in matters of this sort.

A passage from the 3d speech of Isaeus (§39), previously referred to, would seem to show that concubinage was sanctioned by law, and that parents sometimes deliberately gave their daughters into this relation (see *Der attische Process*, p. 501). Part of the passage reads as follows: *ἐπεὶ καὶ οἱ ἐπὶ παλλακίᾳ διδόντες τὰς ἑαυτῶν πάντες πρότερον διομολογοῦνται περὶ τῶν δοθησομένων ταῖς παλλακαῖς*. It will be noted, however, that the phrase *τὰς ἑαυτῶν* is indefinite, and might refer not only to daughters or sisters, but apparently to slaves or other dependents. We have examples of slaves (Ant. 1, 14), freed-

women (like Neaera in the Demosthenic speech bearing her name), and free women of foreign origin (Athen. 13, 61, 592 A; 13, 58, 590 C D) living as concubines with Athenian citizens; and the speech of Isaeus from which the above passage is cited, together with passages from the comedians (see Antiph. *apud* Athen. 13, 29, 572 A; Kock, *Com. Att. Frag.* p. 103), make it clear that Athenian women sometimes sank to the level of *ἐταῖραι*, and consequently to that of *παλλακαί*, inasmuch as a *ἐταῖρα* might become temporarily converted into a *παλλακή* (Athen. 13, 62, 592 D). We cannot determine what class of concubines Isaeus has in view in the passage referred to (see Wyse, *Commentary*, pp. 319-320); perhaps, therefore, it is safest to render the expression *τὰς ἐαυτῶν* by the general term "their women folks," although this rendering of course increases the difficulty of attempting to prove from the passage anything definite respecting the status of the concubine.

The 3d and 6th speeches of Isaeus and the 39th and 40th Demosthenic orations have been extensively cited as affording evidence of the existence of legitimate concubinage at Athens. Prominent among scholars who have found in the speeches of Isaeus mentioned proof of the existence of this relationship is Buermann (*Drei Studien auf dem Gebiet des attischen Rechts, Jahrb. f. cl. Philol.* 1877/78, Supplementband 9, pp. 569 ff., 638 ff.). Relying chiefly on the Demosthenic speeches referred to, but depending also to a considerable

Buermann's Theory. extent on the 3d of Isaeus' orations, Buermann, in the first of his three essays, tries to show that an Athenian citizen, although already duly wedded, was permitted by law to form a union with another Athenian woman, who was formally betrothed to him by her *κύριος*, like a wife, although she was not a wife; that the terms *ἐγγυᾶν* and *ἐγγυᾶσθαι*, belonging to lawful marriage, were applied to this concubine, and that her children were called legitimate—*γνήσιοι*. Buermann's views—which, it will be observed, very nearly identify the position of the concubine with that of the wife—were somewhat favorably received at first, but are no longer seriously entertained by the majority of scholars. Philippi (*Ueber Einige Reden des Isaios und Demosthenes, Jahrb. f. cl. Philol.* 25, 1879, pp. 413 ff.), while agreeing with

Buermann in general, nevertheless dissents from his view of the issue involved in the speech of Isaeus referred to. Buermann's theory has been attacked by Hruza (*op. cit.* 1, pp. 25 ff.), Zimmermann (*De Nothorum Athenis Condicione*, pp. 10 ff.), and others (see *Der attische Process*, pp. 501, 530 ff., 543), and his position has been shown to be untenable. To illustrate briefly the difficulties of his position, we may note, for example, that his line of argument involves arbitrary treatment of parts of Isaeus' 3d oration; and that certain passages (*e. g.* §§4, 14) he is even obliged to set aside as untruths.

Neither the 6th speech of Isaeus nor the 39th and 40th Demosthenic orations appear to afford positive proof of the existence of lawful concubinage. Gilbert (*op. cit.* p. 190) says in this connection: "The Demosthenic speeches against Boiotos, and the speech of Isaeus on the estate of Philoctemon, which were considered the strongest evidence for the existence of lawful concubinage, seem to admit of a satisfactory explanation in the circumstances described in them, without having recourse to this theory." Gilbert, moreover (*loc. cit.*), sees no proof of lawful concubinage in Isaeus' 3d speech, and even finds in the Demosthenic oration *Against Neaera* (§§118, 122) evidence against concubinage. Zimmermann's position is substantially the same (*op. cit.* p. 25). Nor do the authors of *Der attische Process* find in the Demosthenic orations just mentioned any proof of the existence of legitimate concubinage based on *ἐγγύησις* (p. 502).

Becker (*op. cit.* p. 474) admits the absence of any passage directly informing us as to the exact status of the Athenian concubine.* Wyse, who strongly opposes the doctrine of law-

* A very peculiar series of views respecting the Athenian law of marriage are set forth by Müller (*op. cit.*, *Jahrb. f. cl. Philol.* 1899, Supplementband 25, pp. 744 ff., 786 ff.). He thinks that some time after the ill-fated Sicilian expedition certain startling changes were introduced into the marriage laws, doubtless with the view of increasing the number of the citizens of Athens. He conjectures—to state his theory most briefly—that, side by side with marriage, the Athenians established at this time a new form of union, which he terms "Nebenehe." According to this arrangement, an Athenian already duly wedded was permitted and even encouraged by the State to take, in addition to his Athenian wife, another consort—a "Nebenfrau" or secondary wife—

ful concubinage, has admirable remarks upon the subject in his introductions to Isaeus' 3d and 6th orations, to which the interested reader is referred (*op. cit.* pp. 273 ff., 483 ff.).

Before concluding this chapter, I shall speak briefly of the motives and ideals which dominated the Athenians in their marriage relations. For, while this theme has already been

touched upon in connection with other topics, and while the peculiar standards of marriage engendered by the social conditions at Athens have doubtless impressed the reader already, yet the chapter would obviously be incomplete were not the topic in question presented to the reader in a more concrete form.

And first, it is evident that marriage was regarded by the Athenians as a universal duty (see Becker, *Charicles*, p. 473). So great, in short, was the importance ascribed to marriage, that Solon is said to have made it compulsory (*Plut. De Amore Prol.* 2); but the law seems eventually to have fallen into disuse* (*Stob. Tit.* 68, 37; *Plaut. Mil.* 679 ff.). Nor can we

who was neither *γυνή* nor *παλλακή*, and in fact had no distinct title in Greek. This woman might be an Athenian citizen or a person of foreign extraction, and her children possessed certain clearly-defined and valuable rights. Müller assumes that this system did not last long, being abolished on the restoration of the democracy in 403 B. C. His theory is not only inherently improbable, but is unsupported by satisfactory evidence; and when applied to a certain Phile, a prominent character in Isaeus' 3d speech, it involves unwarranted and arbitrary treatment of statements of fact. We are compelled to set aside Müller's series of hypotheses, and to conclude that the institution of "Nebenehe" has existed chiefly in the imagination of the German scholar. The curious reader who desires to become familiar with recent theories on the subject of the *παλλακή*, is referred to Müller's discussion, and in particular to pages 710 and following.

* Wyse, commenting upon the observation made in Isaeus 7, 30, to the effect that all persons who are about to die manifest solicitude with regard to an heir, and that even childless men insure the perpetuity of their line by adoption, observes indignantly: "This remark should not be reverently quoted as if it were a scientific law. There were *esprits forts* at Athens in the 4th century, and men sometimes died unmarried and without leaving behind them an adopted child (§6. 4 n., xi. 49, [Dem.] 44. 18)" (*Commentary*, p. 575).

wonder at the solicitude of the Athenians with respect to marriage, when we remember that they held the welfare of the individual, the family, and the State, to be dependent upon uninterrupted lines of posterity.

The dominant motive which actuated the Athenians in marriage—the production of offspring—is expressed in the Demosthenic speech *Against Neaera* (§122), in the words, ἔχομεν . . . τὰς δὲ γυναῖκας τοῦ παιδοποιεῖσθαι γνησίως. So, too, in the *Oeconomicus* of Xenophon, the youthful husband Ischomachus is represented as declaring that the first motive in marriage is the perpetuation of the human race (Chap. 7, §19; cf. Arist. *Nic. Eth.* 8, 14, p. 1162; Xen. *Mem.* 2, 2, 4 ff.; Plaut. *Mil.* 682, 703, 704).

In their desire for offspring, the Athenians were actuated by a feeling of reverence for the gods and the deified ancestors, a consciousness of obligation to the State, a regard for their race and lineage, and a feeling of solicitude for their own future welfare. That the religion of the race made it incumbent upon each citizen to leave behind those who should continue to perform the customary rites in honor of the gods and the ancestors has, I think, been made sufficiently clear; and Plato admirably expresses the thought when he says, in effect, that every individual is under obligations to provide for a successor to take his own place as a minister of the Divinity (*Laws*, 773 E). Again, it was deemed essential, as we have observed, that the maintenance of the State should be provided for by an unbroken line of descendants in each family; and we have already noted the political as well as the religious motives of the State for perpetuating the family line and encouraging the ancestor worship. It was therefore natural that the individual should regard marriage, with reference to the production of offspring, as an imperative duty to his country. And as to the Greek's feeling of personal responsibility for the perpetuation of his race and lineage, and his somewhat selfish feeling of anxiety for his individual welfare and future tranquillity, there is no need of further elucidation at this point; it is clear that such feelings constituted most potent motives for marriage. The strength of these feelings is illustrated by the wide prevalence, among childless Athenians, of the institution of adoption; and

by the constantly recurring expressions of horror, on the part of Greek writers, at the thought of a "desolate heritage." The universality and potency of the feelings of the Greeks with regard to posterity are well illustrated in a striking passage from Isaeus (7, 30), to which I have several times referred: "All men who are about to die take forethought for themselves, in order that they may not leave their homes destitute of heirs, but that there may be some one who shall offer the sacrifices and perform all the customary rites in their honor; wherefore, even though they die childless, yet at any rate they leave behind a son by adoption. And not only do men take cognizance of this individually, but also the State publicly recognizes these obligations; for by law the State enjoins upon the archon the supervision of the homes, in order that they may not be left destitute of heirs."

An important personal motive which influenced the Athenians in their desire for children was the wish to secure protectors for the parents in their old age; thus, in Xenophon's *Oeconomicus*, Ischomachus, after speaking of the importance of perpetuating the human race, explains to his wife that their children will be an aid to them, and in particular will care for them when they themselves have grown old (Chap. 7, §§12, 19; cf. Lys. 13, 45).

Among other grounds for marriage may be mentioned the desire to gain worldly comfort, and the wish to secure a reliable housekeeper (Arist. *Nic. Eth.* 8, 14, p. 1162; [Dem.] 59, 122). Xenophon speaks of the desirability of securing by marriage an appropriate division of labor, wherein the man performs the out-door work, while the woman guards and supervises the interests in the home (*Oecon.* 7, 22). In the *Trinummus* of Plautus (1182 ff.) the father requires the son to marry in order to reform him. (Cf. Ter. *Heaut.* 1055 ff.) In a passage from Isaeus (2, 4 ff.) an aged man named Menecles asks for the hand of the speaker's younger sister; and the girl is given to him in marriage by her brothers, chiefly on the ground of the friendship previously existing between the girl's father and the prospective bridegroom. In Menander's *Γεωργός* (vss. 68 ff.), the aged Cleaenetus proposes to marry the girl with whom the son of the family is already involved, out of gratitude to the girl's brother.

It is obvious that the Athenian ideals of marriage were on a plane far below those of modern times, and in some respects inferior to the standards of the Homeric age. This, of course,

was inevitable in a condition of society in which woman's position was, on the whole, so low and so devoid of influence in the home and in the community. The wide prevalence of concubinage, whether authorized by law or not; the tendency of the citizens to resort so frequently to separation and divorce, and the prominence of the *ἐραῖποι* in Athenian society,—all these conditions may be cited as illustrative of the ignoble ideals which the Athenians too often entertained with respect to marriage.

Menander's assertion that marriage was "a necessary evil" (*Frag.* 651, p. 192 Kock), while certainly not illustrative of Athenian feeling, may nevertheless be regarded as indicative of the low ideals of marriage which are everywhere prevalent

in the works of the Greek and Roman writers of comedy. Could we accept Aristophanes' utterances as actually illustrative of Athenian feeling, we should be compelled to conclude that the ideals of marriage entertained

by both the men and the women of Athens were utterly base (see *Eccles.* 225 ff., 720 ff.). But we must bear in mind—and this can hardly be reiterated too emphatically—that it is the tendency and the privilege of the comic poets of antiquity deliberately to exaggerate and misrepresent for the sake of comic effect. No one would dream of accepting seriously Aristophanes' distorted representations of Socrates, for example; and it is clear that if we attempt to view Athenian ideals of social life—and particularly of marriage—through the medium of Attic comedy alone, we shall receive altogether erroneous impressions. Jebb says of the works of Aristophanes: "There is a play of fancy as extravagant as a modern burlesque; the whole world is turned topsy-turvy; gods and mortals alike are whirled through the motley riot of one great carnival" (*Greek Literature*, p. 100). Similarly, Mahaffy maintains that the great Athenian dramatist is not to be depended upon as an historical authority; and he cites in support of his view the

conclusion reached by Müller-Strübing in his memorable work, *Aristophanes und die historische Kritik* (see *Social Life in Greece*, pp. 209-210).

A situation thoroughly typical of the New and Middle Comedy is set forth in the *Γεωργός* of Menander (vss. 1 ff.). Here we meet with an amorous and unprincipled youth, who finds, on returning home after an absence, that his father has determined upon his marriage with his half-sister, and that the wedding preparations are in full swing. He is dismayed at the situation, for already he has involved himself in an intrigue with another girl, whom he wishes to marry; and he proposes to thwart his father's wishes. At this juncture a slave appears, and tells the distracted mother of the girl with whom the youth has become involved, that his master, an aged man, out of gratitude to another member of the family, will marry the girl, take her to his country home, and thus relieve a strained situation. Here the fragment ends, amid the grief and perplexity of the mother of the injured girl, who is naturally more disturbed than ever at this unexpected turn. And although this fragment contains only 87 lines, and although we possess altogether only a little more than 100 lines of the play, still the characters and situations are precisely those which so often confront us in the Greek and Roman comedy, and especially in Terence. Now one of the most painful features of this typical sketch—apart from the thoroughly frivolous and degenerate tone of society here revealed—is the situation which involves the downfall of the heroine—her irretrievable downfall, from our point of view. For the ancient Greeks, for the most part, seem, at times, to have been incapable of appreciating the sentiment expressed by Horace:

Neque amissos colores
Lana refert medicata fuco,
Nec vera virtus, cum semel excidit
Curat reponi deterioribus.

(*Odes* 3, 5, 27-30; cf. Xen. *Hiero*, 3, 4.)

The ultimate marriage of the heroine of the comedy and her restoration to the plane of social respectability, seem to have been entirely satisfying to the Greeks of Menander's time.

Perhaps even more repellant than such a situation as that which has been described—and more repugnant even than the portraits of the *ἐταῖροι* with which the Greek and Roman comedies abound—are the cases recorded by the comic poets of immoral old men who, either secretly or in defiance of their wives, deliberately coöperate with their sons in vice. The situation which is disclosed to us in the argument of Plautus' *Asinaria*, is a case in point, and would seem to indicate that the standards of married life during the period of Middle and New Comedy were hopelessly base.* Perhaps such cases as these were exceptional among the Athenians, or typical rather of the degenerate Alexandrian period than of the age of the orators; perhaps—as Mahaffy evidently supposes—Menander and his contemporaries—followed by their Roman imitators—were addressing themselves chiefly to the most frivolous elements of society; perhaps the poets continued to reproduce such types and situations because the latter had become fixed and conventional, and because the authors lacked the courage or power of initiation to introduce new themes (see Mahaffy, *Greek Life and Thought*, pp. 114 ff.); be that as it may, the impressions which these writers impart to us of Athenian social standards in general, and of marriage ideals in particular, are distinctly painful.

The impressions which the orators give us of Athenian marriage ideals—as indicated in numerous citations throughout this and the preceding chapter—are, in the main, decidedly gloomy. But we must bear in mind—and

Impressions derived from the Orators. this can hardly be too often reiterated—that in the orators the strictly legal and formal aspects of social life predominate; and it would manifestly be as unfair to judge the

* The argument is as follows:

Amanti argento filio auxiliariet
 Sub império uiuens uolt senex uxorio:
 Itaque ob asinos relatam pretium Saureae
 Numerari iussit seruo(10) Leonidae.
 Ad amicam id fertur: cedit noctem filius.
 Riualis amens ob (p)raereptam mulierem
 Is rem omnem uxori per parasitum nuntiat.
 Accurrit uxor ac uirum e lustris rapit.

Athenians solely by the writings of the orators, as to form an estimate of modern society from the records of the law courts alone.

The attitude of the philosophers toward marriage is interesting. Attention has already been drawn to Plato's advocacy of the plan of making the occupations of men and women practically identical (*Rep.* 455 B ff.), and of establishing a

communal marriage for the guardian
Attitude of the classes, in his ideal commonwealth (*Ibid.*
Philosophers. 458 A ff.). It is amazing to a modern

reader that the great philosopher—however praiseworthy his motives may have been—should have deliberately proposed to strike so deadly a blow at married life and the sanctity of the home. It is to the everlasting credit of Aristotle that he opposed so earnestly and so successfully these communistic views of Plato (see *Pol.* 2, Chap. 3, 4). Aristotle's conception of marriage is distinctly different from Plato's; it is more spiritual and more modern, ethically regarded. I cannot do better than to quote, in this connection, a few lines from the admirable excursus on marriage and the family, contained in pages 327-328 of the Susemihl & Hicks edition of the *Politics*. The author summarizes in an interesting manner Aristotle's views on marriage as contained in the *Nicomachean Ethics* (8, 12, 7, 1162 A 16): "Between man and wife . . . there is a natural tie of love and friendship; for man is by nature even more designed for fellowship in marriage than in the state, inasmuch as the family is prior in time and more indispensable than the state . . . Human beings do not marry merely to bring children into the world, but to share their lives together. From the outset the functions of man and wife are distinct; by making their different endowments common property they mutually assist each other. Hence, such a relationship of love and friendship combines utility with pleasure; and this pleasure, provided both are excellent in their own way, rests on the mutual delight of each in the other's diverse excellence. Children are the bond of union as being the common property of the parents; for what is possessed in common strengthens their union; and this is the reason why a marriage is more easily dissolved when there are no children."

Susemihl also calls attention to the fact that it is "not simply its impracticability that Aristotle urges against the community of wives and children." . . . "Aristotle has upheld against him (Plato) the right and dignity of marriage in its relation to civil life, has shown what is at stake if marriage be abolished, the loss of the most primitive and sacred ties which bind man to man before a state arises to develop out of the family a higher unity" (*Ibid. loc. cit.*).

These are truly admirable utterances, and if they stood alone they would fully justify us in assigning to Aristotle a distinctly advanced position as regards marriage and family relations. But, unfortunately, Aristotle's philosophy of marriage has another side, and one which is shocking to a modern; he not only deliberately advocates the exposure of infants suffering with any physical disability, but, in order to restrict population, he recommends the employment of ἀμβλωσις (*Pol.* 4 (7), 16, 15). Herein Aristotle is making perhaps a more deadly attack upon the sanctity of marriage than Plato in the *Republic*; for while the latter countenances the exposure of infants under certain circumstances (*Rep.* 460 C D, 461 C), yet he is not as insistent and cold-blooded as Aristotle is, in the matter of restricting the population; and in the *Laws* Plato's whole attitude becomes more humane.

It is deplorable that these great thinkers should have deliberately advocated such monstrous doctrines; and it is hardly to be wondered at that the people at large should have entertained low ideals of marriage and family life, when their intellectual leaders had gone so far astray.

It would be utterly unfair, however, to conclude that the Athenians in their marriage relations were wholly dominated

by ignoble ideals; for—apart from the ad-

**Higher Ideals
in Marriage
not unknown.**

mirable sentiments expressed by Aristotle—we have evidence that at times they manifested a keen appreciation of the sacredness of marriage. Thus, Plutarch tells us of the

deep and unselfish love of a certain Callias, who, in order to win as his bride the sister of Cimon, paid her father's debt (*Cim.* 4). Another interesting passage from Plutarch (*Sol.* 20) points out that marriage should not be mercenary in

its nature, but that kindness and affection should be among the motives for the union. Xenophon in his *Oeconomicus*, as we have seen, presents to us a really attractive picture of conjugal happiness; and in one passage (7, 42) he sets forth beautiful marriage ideals; here the young husband pledges devotion to his girl-wife, and assures her that with the lapse of years she will not be less honored, but even more esteemed in the household, as the partner of the husband and the guardian of the home for the children. He also speaks of the mutual dependence of husband and wife, each of whom is incomplete without the other (*Ibid.* §28). Other passages from Greek authors, indicating affectionate and confidential relations between husband and wife, might be cited (*e. g.* see [Dem.] 59, 110; Aristoph. *Wasps*, 610-612). And even the Roman comic poets repeatedly expatiate upon the passion of enamored youths, as in the case of Charinus and Pamphilus in the *Andria* of Terence, and Antipho and Phaedria in the *Phormio* (see *Phorm.* vss. 80 ff., 200 ff., 485 ff.). It is highly improbable that the comic poets would have so frequently presented such situations as these, had they not occasionally, at least, had their counterparts in real life.

But it is in the lyric, and, above all, in the tragic poets, that we find suggestions and clear indications that the Greeks often entertained far higher ideals of marriage than those which are presented by the orators and the comic poets. The famous poem of Sappho, addressed to a beloved maiden, and revealing a romantic and passionate attachment, can hardly, I think, be cited as illustrative of the devotion that might be found in marriage, in view of the possibility that the verses represent merely the attitude of one woman toward another. A passage from Pseudo-Phocylides, however (vss. 195-197—see Bergk's *Anth. Lyr.*), clearly indicate that admirable standards of marriage sometimes prevailed among the Greeks. And in the tragic poets, in particular, lofty ideals, noble motives, and admirable relations between husband and wife are frequently set forth. A striking passage occurs in the *Agamemnon* of Aeschylus, in which Clytaemnestra eloquently expresses the grief and loneliness which she feels

**Ideals as seen
in the Lyric and
Tragic Poets.**

in her husband's protracted absence (vss. 855 ff.); and in another interesting passage the chorus vividly depicts the silent grief of Menelaus after Helen's departure with Paris (*Ibid.* 412 ff.). Haemon in the *Antigone* of Sophocles pleads for his betrothed and reveals a deep and passionate devotion (see vss. 635 ff., 751, 762-765); Antigone at a critical point in the tragedy exclaims, ὦ φίλταθ' Αἴμων, ὥς σ' ἀτιμάζει πατήρ (vs. 572); and the chorus, in a passage of marvelous beauty, extols the power of love (vss. 781 ff.). In the *Electra* of Euripides we see the most admirable relations existing between Electra and her peasant-husband—mutual respect, affection, and thoughtfulness (vss. 64 ff., 345 ff.). A long and beautiful recognition scene between Menelaus and Helen in Egypt is portrayed by Euripides in his *Helen* (vss. 625 ff.). And the *Alcestis* in particular contains beautiful passages indicative of happiness in marriage; thus, Euripides represents Alcestis, even while the shadow of death is hovering over her, as praying that her children may marry happily (vss. 163 ff.); and elsewhere in the play the poet sets forth admirable marriage ideals (cf. vss. 915 ff., 473 ff.). So also in a passage from the *Ion* the chorus praises marriage (see especially vss. 488-489). But other passages from Euripides vituperative of marriage may also be cited; thus in the *Alcestis* the chorus expresses the view that marriage brings more pain than joy (vss. 238 ff., 878 ff.). So, also, in the *Medea*, the chorus expatiates upon the advantages of a single life (vss. 1081 ff.; cf. 230 ff.). It is, of course, obvious that in each of the above instances Euripides is merely making his characters say what is suitable to the occasion, without necessarily giving his own views. And it is evident that we must be on our guard against accepting unreservedly particular passages as proving a fact or establishing a theory respecting Greek private life; for the aforesaid passage may be elsewhere contradicted; and, in the long run, it is only evidence in the aggregate that is clearly convincing.

A very charming Greek tale of courtship and marriage, and one that has had a far-reaching influence on literature, is the story of Acontius and Cydippe, contained originally in the *Aetia* of Callimachus. Mahaffy says of this story: "We have lost all knowledge of the special merits of the poet's treatment, but the 20th and 21st Epistles (*Heroides*) of Ovid, a

free imitator of Callimachus, and the prose *résumé* by Aristaenetus, give us all the main facts of this remarkable story—remarkable because we may regard it undoubtedly as the first literary original of that sort of tale which makes falling in love and happy marriage the beginning and the end, while the obstacles to the union form the details, of the plot” (*Greek Life and Thought*, pp. 236-237). The story goes that Acontius and Cydippe, the youthful hero and heroine of the romance, both surpassingly beautiful, accidentally met at a festival of Delos, and immediately became deeply enamored with one another. But the parents on both sides were exceedingly unsympathetic, and the girl’s parents, in particular, strenuously opposed the match, and even attempted to marry their daughter to another. Eventually, however, after a long separation and many trials and great unhappiness on both sides, the lovers were united and happily married. Mahaffy says: “Here, then, is the first specimen of a simple love tale, such as produced among the later Greek endless imitations in prose and verse. We have still extant the *Hero and Leander* in verse, in prose the whole body of Greek novels, which ring everlasting changes on the same topic. We have them again in the *Metamorphoses* and *Epistles of Heroines* of Ovid. From them they pass into the early Italian tales, and so into the *Romeo and Juliet*, the *Orlando and Rosalind*, of Shakespeare. From that time on we all know what universal sway the prose romance or sentimental novel has attained all over Europe.”

“But,” Mahaffy continues, “perhaps the newest of all the features in this forerunner of the Greek novel, was the virgin purity of the maiden; and it may well astonish us that an age not remarkable for morality, nay, rather abounding in license both of living and of writing, should have laid hold with such interest of so noble a condition. The world they* describe is not a moral world. . . . But the heroine, like the lady in *Comus*, is proof against both dangers and temptations. It was therefore a real crown of glory left for Callimachus, to propagate a newer and higher view of life among men” (*Greek Life and Thought*, pp. 238, 240).

* Mahaffy is referring to the later Greek novelists.

If we could convince ourselves—as the optimistic Mahaffy is evidently convinced—that the charming love story written by the distinguished Alexandrian poet really represents ideals and conditions prevailing in the times of the Attic orators, we should find in this romance a pleasing antidote for the gloomy impressions derived from the orators, philosophers, and comic poets. If, moreover, we could interpret the

Concluding tragic poets as portraying, for the most part,
Reflections. the ideals of the age in which they lived, rather than those of the heroic past, we should have

additional grounds for supposing that true happiness in marriage was the rule rather than the exception with the Athenians of the Age of Pericles and the times immediately following. And it can hardly be doubted that such ideal sketches as those of Xenophon and the tragic poets represent types which sometimes were found in actual life. But, on the other hand, it seems undeniable that in the tragic poets the spirit of the past dominates; and that the beautiful and artistic pictures to which we have referred represent, for the most part, the ideal rather than the actual in Greek life. Moreover, it seems altogether improbable that the ideals so admirably set forth by Callimachus and his imitators are really representative of the age of Isaeus and Demosthenes, rather than illustrative of the Alexandrian epoch. The evidence at our disposal seems clearly to show that the situation as portrayed by the orators is approximately correct; and that the counterparts of Acontius and Cydippe, and of Ischomachus and his youthful wife, were rarely to be found at Athens during the most brilliant period of her intellectual supremacy. The excessive devotion of the men of Athens to public life, intellectual pursuits, religious and secular celebrations, war and athletics; the comparative indifference of husbands and fathers to all domestic ties; the subservient position to which mothers, wives, and daughters were relegated; the subordination of the family to the interests of the State; and the absence of marital and parental authority,—these were among the causes which made the Athenian marriage so insecure, and so far removed from the best ideals of other ages in the world's history.

CHAPTER VI.

THE RELATIONS OF PARENTS AND CHILDREN.

When we approach the subject of the relations existing between Athenian parents and children, we are immediately impressed by certain marked differences between the Roman and the Attic law, and particularly by the striking contrast between the unlimited power which the Roman law conferred upon the Roman father to do whatsoever he pleased with his own, and the absolute dependence of the Athenian father upon the operation of the inheritance laws.* The rights of the Athenian son were most jealously guarded, and the father had

**Limitations of
the Athenian
Father's Power.**

little opportunity to dispose of his property according to his inclinations. Perrot well says: "The will of man had not the same sovereign and creative force with the Greeks as with the Romans. . . . The will of the Athenian testator is enchained by the law, which im-

* Such limitations of power on the part of the Greek father, however, certainly did not exist in early times. Grote characterizes the situation at the dawn of history as follows: "Here we recognize once more the characteristic attribute of the Grecian heroic age,—the omnipotence of private force, tempered and guided by family sympathies, and the practical nullity of that collective sovereign afterwards called the City,—who in historical Greece became the central and paramount source of obligation, but who appears yet only in the background, as a germ of promise for the future" (*History of Greece*, Vol. 2, p. 93). Maine, *Ancient Law* (pp. 122 ff.), says: "The effect of the evidence derived from comparative jurisprudence is to establish that view of the primæval condition of the human race which is known as the Patriarchal Theory. . . . The eldest male parent—the eldest ascendent—is absolutely supreme in his household. His dominion extends to life and death and is as unqualified over his children and their houses as over his slaves; indeed, the relations of sonship and serfdom appear to differ in little beyond the higher capacity which the child in blood possesses of becoming one day the head of a family himself. . . . If I were attempting, for the more special purposes of the jurist, to express compendiously the character of the situation in which mankind disclose

periously bestows the inheritance upon the sons and divides it among them in equal portions. Solon consecrated in a formal manner the rights of the son to inherit the father's property" (*L'Éloquence Politique et Judiciaire à Athènes*, p. 370).

Proceeding now to a detailed consideration of the relations existing between father and child, we observe that after the birth of a child, and its presentation to the father, it was customary for the latter either to acknowledge the infant,—thereby conferring upon it all the rights and privileges belonging to the son or daughter,—or, as occasionally happened, to repudiate the child (see Becker, *Charicles*, p. 218), and even to condemn it to death outright (Schömann, *Antiquities of Greece*, p. 501; cf. Ter. *Heaut.* 634-635). An instance in

Acknowledgment and Repudiation of Children—Infanticide. which a father disowns a son when formally presented to him (although he subsequently acknowledges the child), is recorded by Andocides (I, §§126, 127). Becker observes that the barbarous prac-

themselves at the dawn of history, I should be satisfied to quote a few verses from the *Odyssey* of Homer:

τοῖσιν δ' οὐτ' αγοραὶ βουλευφόροι οὔτε θέμιστες,
 θεμιστεύει δὲ ἕκαστος
 παίδων ἢ δ' ἀλόχων, οὐδ' ἀλλήλων ἀλέγουσιν.

'They have neither assemblies for consultation nor *themistes*, but everyone exercises jurisdiction over his wives and his children, and they pay no regard to one another.' These lines are applied to the Cyclops, and it may not perhaps be an altogether fanciful idea when I suggest that the Cyclops is Homer's type of an alien and less advanced civilization. . . . However that may be, the verses condense in themselves the sum of the hints which are given us by legal antiquities." Such, then, appears to have been the situation at the dawn of the historical epoch; and certainly during the heroic age. Since the State is, as yet, practically non-existent, unrestrained individual power and independence of family life dominate all else. But, with the development and organization of the State, and with the establishment of the laws of Solon, there comes a change in the spirit of the times; individual power and parental authority are greatly circumscribed, and the rights and privileges of the family become of minor importance as compared with the obligations to religion and to the State.

tice of exposing children was actually authorized by law,* but thinks that exposure was "not so frequent in regular marriage as has been usually supposed (*Charicles, loc. cit.*). It would seem that infant girls were especially likely to fall victims to a father's cruelty,† as is indicated in a passage from Terence (*Heaut.* 634-635; cf. *Stob. Flor.* 77, 7). Meier & Schömann call attention to the fact that in this play of Terence the exposure of the child occupies an important and essential place in the development of the plot; and the same authorities deny the probability of the introduction of any Roman elements into the *fabula palliata*, in so far as the exposure of infants is concerned (*Der attische Process*, p. 528; cf. *Aristoph. Frogs*, 1189-90; *Thesm.* 505; *Schol. on Wasps*, 289).

We may conclude that the tendency on the part of mothers to expose children born out of wedlock was particularly marked (*Der attische Process, loc. cit.*).

Undoubtedly an additional reason for the frequent exposure of female children may be found in the disinclination on the part of the father to incur the burden of portioning the daughter. Thus, Menander says (p. 9, Kock):

χαλεπὸν γε θυγάτηρ κτῆμα καὶ δυσδιάθετον,

*The attitude of the State in authorizing the exposure of sickly or disabled children is no doubt largely to be accounted for on the ground that the Greek child was regarded primarily as a member of the State rather than of the family; and the subordination of the family to the State is everywhere apparent.

† McLennan, *Studies in Ancient History—Primitive Marriage*, pp. 90-91, thinks that the custom of infanticide, especially as regards female children, originated in the conditions prevailing in prehistoric society, when the efficient services of the men were so constantly needed for protecting and providing for the family group. McLennan says: "It would be to the interest of every horde to rear, when possible, its healthy male children. It would be less to its interest to rear females, as they would be less capable of self-support, and of contributing, by their exertions, to the common good. In this lies the only explanation which can be accepted of the origin of those systems of female infanticide still existing, the discovery of which, from time to time so shocks our humanity. It is of no consequence by what theories the races who practice infanticide now defend the practice. There can be no doubt that its origin is everywhere referable to that early time of struggle and necessity."

and in another passage from the same author (p. 20, Kock) we read:

εὐδαιμονία τοῦτ' ἔστιν υἱὸς νοῦν ἔχων·
ἀλλὰ θυγάτηρ κτῆμ' ἔστιν ἐργῶδες πατρί.

Again, it is probable that children were sometimes exposed in order that parents might escape the trouble of rearing them, or in order that the inheritance might not be subdivided too minutely. Thus we read in the *Pastorals* of Longus (*Erotici Scriptores*, Didot collection, Bk. 4, p. 173): "Ἄλλοι πατέρες ἐξέθηκαν τοῦτον, ἵσως παιδίων πρεσβυτέρων ἄλις ἔχοντες. (Cf. Ter. *Adelph.* 807 ff.)

Apparently an Athenian father was not authorized to recognize a child whose mother was not an Athenian citizen (see *Der attische Process*, p. 533).

Unquestionably a father could, and frequently did disown and abandon a weakly child, or one afflicted with a physical disability; this, at any rate, is the inference drawn from the philosophers; and we have already noted that Plato and Aristotle express their approval of infanticide, under certain conditions (Plato, *Rep.* 460 D, 461 C; Arist. *Pol.* 4 (7) 16, 15 ff.). In the *Theaetetus* of Plato (151 C) there occurs a significant passage which clearly shows the prevalence of the practice; here Socrates is comparing the anger of his pupils, when first confuted in the midst of their prejudices, with the fury of a young mother who has been deprived of her child, and he says: "And if I . . . take away and expose your first-born, do not be angry with me after the manner of women, when their first children are taken from them."

Susemihl remarks with regard to the practice of infanticide,* that the example of Sparta had a determining influence on both Plato and Aristotle, and adds: "In all other Greek states it was left to the father's decision whether he would expose his child or not; but at Sparta a committee of the eldest members

*In view of the undoubted prevalence of infanticide among the Athenians, it is not surprising that the literature of the Greeks—with the exception of a few late epigrams—contains almost no references to the grief of parents bereft of their children (see Mahaffy, *Old Greek Education*, pp. 12-13). The passage above cited from the *Theaetetus* is a notable exception.

of the Phyle decided, and in accordance with their decision the deformed or weakly child had to be dispatched to the place of exposure" (*The Politics of Aristotle*, p. 552).

Jowett & Campbell (*Plato's Republic*, Vol. III, p. 232), in commenting on the passages from the *Republic* and the *Politics*, remark that "they are not in any degree at variance with Greek feeling." . . . "On the whole," our authorities continue, "we must conclude that the only reason for denying Plato to be a maintainer of infanticide is the wish to acquit him of allowing a practice so repugnant to modern Christian notions."

In connection with the subject of the acknowledgment and repudiation of children, it is interesting to note that the oath of the mother, as to the identity of the father, carried the utmost weight. Thus, in Aristotle's *Rhetoric*, 2, 23, 11, we find this statement: *περὶ τῶν τέκνων αἱ γυναῖκες πανταχοῦ διορίζουσι τ' ἀληθείας*.

Aristotle then cites two instances in which the woman's statements regarding the children are accepted as final. One of the instances cited is evidently that of a certain Mantias

The Mother's Oath. whose experiences are described by the speaker in the 39th and 40th Demosthenic orations (see especially 39, §§3 ff.; 40, §§6 ff.; the passage has already been cited in connection with another topic). Here we observe that the eldest of the sons of a woman named Plango, with whom Mantias had long been enamored, tries to compel Mantias to acknowledge himself and his brother as sons, in order that they may inherit part of Mantias' property. The claim is resisted, and the matter is referred to arbitration. Hereupon Plango resorts to an extraordinary device to gain a judgment in her sons' favor. She promises, in consideration of a sum of money, to make oath before the arbitrator that Mantias is not the father of her sons; but she deceives him, and at the critical moment she swears that Mantias is the father of the young men, whereupon he is compelled to acknowledge them. The exact relations of Plango to Mantias, and consequently the legal status of her sons before this culminating act on the part of Mantias, are uncertain (see Zimmermann, *De Nothorūm Athenis Condi-cione*, p. 12); but these questions are immaterial in considering the fact of Plango's oath.

The weight carried by the woman's oath,* under such circumstances, is extraordinary, when we consider the general attitude of the Athenians with respect to women; the mother's statement as to the child's parentage seems to have been regarded as conclusive evidence. The oath of this woman Plango, who was evidently an unprincipled person, simply revolutionizes the family affairs of Mantias. According to the speaker, Mantias is compelled, against his will (*Or.* 40, 54), to enroll the woman's sons in his own phratry, thus virtually adopting them (*Or.* 39, §§20, 29), and practically admitting them to the sons' rights and privileges (*Or.* 40, 11); and Mantias' acknowledged son, unlike the Philoctemon mentioned by Isaeus, seems to have been powerless to prevent this (cf. *Isae.* 6, §§18 ff.). And finally, after Mantias' death, his own son is compelled to share his inheritance with these sons of Plango ([*Dem.*] 40, 13 ff.). That the oath of a corrupt woman should thus have baffled the wishes of a father and overridden the unquestioned rights of the son with respect to his father's property, is not only astonishing, but is, apparently, wholly at variance with the spirit of the inheritance institutions.†

Assuming that the child was permitted to live, we find, as Perrot has so clearly pointed out, that the father's power in all directions was greatly circumscribed, and that the laws of Solon guarded the rights of the son with the most jealous

* The potency of the woman's oath, made under such circumstances, may perhaps be regarded as a survival from a primitive epoch, when women were dominant and when relationships were traced through them and not through men (see McLennan, *Studies in Ancient History—Primitive Marriage*, Chap. VIII, and *Kinship in Ancient Greece*; Morgan, *Ancient Society*, pp. 343 ff.; Bachofen, *Das Mutterrecht*, *passim*).

† It must be said, however, that these Demosthenic orations present serious difficulties and intricacies, and that there are divergencies of opinion among scholars as to the real facts in the case. It is by no means impossible—and some scholars hold this view—that Mantias had married Plango, and had subsequently divorced her (*e. g.* see Gilbert, *Greek Constitutional Antiquities*, App., p. 454). If we could absolutely prove that a marriage with Plango had taken place, it would be evident that the speaker in the orations in question had deliberately concealed important facts bearing upon the case, and had misrepresented the real situation.

The Son's Inheritance Rights.

solicitude. Thus, Isaeus tells us that the Athenian father cannot give or bequeath his property according to his pleasure, since the law gives the inheritance to the sons, who share in the property equally;* and the father does not even mention the son in his will, since the son is the inevitable heir (Isae. 10, 9; 6, §§25, 28). So, also, when there are legitimate sons, the estate is not subject to legal controversy, and the sons do not have to claim their father's property by process of law; they simply take possession (Isae. 3, 59-60; cf. *Der attische Process*, pp. 665 ff.). Moreover, no one is likely to contest the son's claim to his inheritance † (Isae. 3, 61).

* Sometimes, however, it would seem that brothers found it desirable to hold at least part of the inheritance in common (Lys. 32, 4; Aeschin. 1, 102; [Dem.] 44, 10). Sometimes, again, on the death of a father, the eldest son seems to have assumed control of an estate, and to have become guardian of his younger brothers and sisters (Lys. 10, §§4, 5).

† Wyse questions the accuracy of Isaeus' statement that no man with legitimate sons can give or bequeath his property to others (*Or.* 6, 28: ὁ νόμος αὐτὸς ἀποδίδωσι τῷ υἱεὶ τὰ τοῦ πατρὸς καὶ οὐδὲ διαθέσθαι ἐᾷ ὅτῳ ἂν ᾧσι παῖδες γνήσιοι.); and he cites several instances in which Athenian fathers appear to have left special legacies to members of their families, friends, or religious bodies (*Commentary*, pp. 325, 515). The first instance cited is that of a certain Pasion, a banker, who made a special bequest to his eldest son in recognition of the principle of primogeniture (Dem. 36, 34; cf. 39, 29). But this case is a doubtful one, as Wyse himself virtually acknowledges (p. 515) inasmuch as the will in question is declared to have been a forgery or invalid. Wyse also cites various instances in which Athenian fathers left money or property of considerable value to be used as dowries (*e. g.* Dem. 45, 28; 27, §§5 ff.; Lys. 32, 6), and one instance in which the guardian was to have the income from a certain sum until his ward had attained his majority (Dem. 27, §§5 ff.; 29, 43), apparently finding in these passages evidence of untruthfulness on Isaeus' part, in his statements respecting the rights of children. But it does not seem to have been an infringement of the rights of children to assign to the use of the guardian the income from a portion of the estate, any more than to permit the husband of the heiress to enjoy the usufruct of the inheritance during the son's minority (see Perrot, *L'Éloquence Politique et Judiciaire à Athènes*, p. 376). And in my judgment, Wyse goes altogether too far in his spirit of hostility to Isaeus when he cites the giving of large dowries as an argument to disprove Isaeus' accuracy of statement. The dowry, as we have seen, was as well established as any Athenian institution, and had its own recognized place in the in-

Again, the father could not control the disposition of his property, or show any preference, in case a son should be born to him after he had adopted a son, for the law gave the adopted son and the son by birth equal portions of the inheritance

heritance system. Its recognition is so universal, in fact, that Greek writers doubtless thought it wholly unnecessary to state specifically that the Athenian father had a legal right to give a dowry. It is true that the bestowal of a dowry disproportionally large was considered detrimental to the best interests of the State, as we have seen; but nowhere among Greek writers, will there be found, I think, even a hint that the giving of a dowry was thought to conflict with the inheritance rights of sons. To identify the dowry with any form of an ordinary bequest, as Wyse virtually does, and on this ground to attempt to impugn Isaeus' veracity, is manifestly unfair. Wyse also cites in support of this dissenting view, the case of the illustrious Conon, who is said to have dedicated a large sum of money to Athena and to Apollo at Delphi, and to have made special bequests to his nephew, his brother, and his son (Lys. 19, §§39, 40). But this gift to the deities was quite in accord with the spirit of the Athenian inheritance system, wherein, in all its ramifications, the obligations to religion and the State were paramount—a point upon which Wyse does not seem to me to dwell with sufficient emphasis. Possibly Conon, by virtue of these lavish gifts to the gods, felt that he would secure special dispensation from the courts with respect to the remainder of his bequest. And even were we to grant that this and the other instances mentioned were exceptions to the regular rule, still it would not necessarily militate against Isaeus in his enunciation of a *general principle*. But the difficulties noted by Wyse seem to have been satisfactorily explained many years ago in that admirable work, *Der attische Process*. Here the remark is made that an Athenian father could evidently, under certain circumstances, make a bequest in the form of a legacy to a relative or to a religious organization, or could bestow upon a son or daughter a gift preliminary to the general distribution of the inheritance, without violating the law. "Such a bequest does not seem, it is true, to have been expressly authorized by law, but was evidently tolerated in practice, provided the inheritance rights of the children were not too seriously encroached upon" (Meier & Schömann, pp. 590-592). Wyse remarks with respect to these apparent deviations from the rule laid down by Isaeus: "The most probable explanation of this discrepancy is that the law . . . was not enforced consistently, because society had outgrown the ideas and needs of the 6th century. The average Athenian regarded the name of Solon with superstitious reverence, but when called by the lot to the office of a judge, was not accustomed to apply the rule with conscientious severity, if in any case he thought it irksome or inequitable" (*Commentary*, p. 325).

(Isae. 6, 63). On the other hand, Demosthenes (20, 102) cites the law which permits a man without legitimate sons to dispose of his property by will as he chooses; Isaeus (2, 13; 6, 9) also mentions the law, restricting its operation, however, according to the latter passage, to the man who is not mentally unsound or incapacitated by any other of the causes specified in the law.

Among the chief duties of the son—whether the son by birth or by adoption—were the obligations, already discussed, to perpetuate the family line and the ancestor worship, and to discharge the family's indebtedness to the State.

Duties of the Son. In a previous chapter reference was made to the law which made it obligatory upon the son to care

for the parents during their lifetime and faithfully to perform all religious rites after the parents' death; and we may note that the law and public opinion required not merely that the son should treat the parents and grandparents with consideration, shelter them, and support them, but that he should also bestow upon them the comforts of life, so far as lay in his power (Lys. 13, 91; Aeschin. 1, 28; Aristoph. *Birds*, 757; Eur. *Alc.* 619 ff.; Plato, *Laws*, 931 A D E). Isaeus states explicitly that the grandparents and even the great-grandparents must be cared for, even though they leave no property (*Or.* 8, 32); and that the penalties of the law and public odium would be visited upon the heirs who disregarded such obligations (*Or.* 1, 39). A chapter from Xenophon's *Memorabilia* (2, 2) is exceedingly interesting as illustrating Socrates' keen appreciation of the debt of gratitude due from the son to the mother; and in one passage from the chapter (§13) we are informed that the State prosecutes the son who neglects his parents' support, and debars him from holding public office if he is found guilty, "on the ground that the sacrifices would not be offered in a due spirit of reverence on behalf of the State if this man officiated, and that he would perform no other act honorably and justly."

Attitude of the State with regard to the Son's Duties. A person convicted of the maltreatment of parents was considered *ἄτιμος τὸ σῶμα* (Andoc. 1, 74); in other words, he was excluded from the *ἀγορά* (Dem. 24, 63), and was prohibited from speaking in the Assembly

(Aeschin. I, 28). Diogenes Laërtius I, 55, says, *ἐάν τις μὴ τρέφῃ τοὺς γονέας, ἄτιμος ἔστω*. We are told that one of the questions asked at the scrutiny of the nine archons was, "Do you treat your parents well?" ('Αθ. Πολ. 55, 3; cf. Dem. 57, 70). We also learn that the person prosecuting an unnatural son enjoyed special exemptions from the court ('Αθ. Πολ. 56, 6; Harpoc. *δ.νν. κάκωσις, εἰσαγγελία*). It is evident, then, that filial devotion was generally regarded by the Athenians as one of their most sacred obligations; thus, in the *Supplices* of Aeschylus (vss. 707-709), we read:

τὸ γὰρ τεκόντων σέβας
τρίτον τόδ' ἐν θεσμίῳις
Δίκας γέγραπται μεγιστοτίμουν.

It is also evident that neither public opinion nor law founded filial duty merely on the right of inheritance (see Xen. *Mem.* 2, 2, 13 ff.; Aeschin. I, 28; Plato, *Laws*, 931 A ff.).

It cannot be denied that, theoretically considered, the Attic law made ample provision for the security and comfort of Athenian parents; but, unfortunately, we find that the obligations of children to parents were not always met in a worthy spirit, and Aristophanes in particular gives us the impression that Athenian children were inclined to be mercenary and even heartless in their attitude toward the parents. In the *Wasps* (vss. 606 ff.), the old dicast tells of the affectionate greetings which he receives from the members of his family when he returns home with his fee; "all welcome me on account of the money," he says (vss. 606-607); whereas, without the income derived from jury duty, he would be dependent upon his son for support, and apparently in danger of being poisoned by the son's steward (vs. 614). In the *Ecclesiazusae*, Blepyrus speaks of sons who throttle their fathers (vss. 639-640). In the *Clouds*, Pheidippides strikes his father (vss. 1321 ff.), and threatens even to strike his mother (vss. 1441 ff.). Of course, in considering the value of such passages as these, we must bear in mind Aristophanes' tendency to exaggerate; but even after making all due allowances, we can hardly deny that the passages in question clearly show the spirit and tendency of the times. And our unpleasant impressions are deepened when we read of the tendency on the part of Athenian sons to bring

action against aged fathers to remove the latter from the control of their property and keep them in confinement, on the ground of mental weakness (see *Clouds*, 845; *Xen. Mem.* 1, 2, 49). The story told by Cicero of the action which the son of Sophocles instituted against his aged father—a story too well known to require repetition—sufficiently illustrates the practice referred to (see *De Senec.* §7; *De Fin.* 5, 1).

If sons were sometimes reluctant to support the parents, it is probable that grandsons viewed with even greater aversion the obligation to care for the aged grandparents, and regarded such an obligation as a grievous burden (see *Isae.* 1, 40; cf. [*Dem.*] 44, 66).

Under certain circumstances the son was not required to care for the parents. Thus, it is interesting to observe that according to Plutarch (*Sol.* 22), the son was not required to support the father, in case the latter had neglected to teach the son some useful art* (cf. Plato, *Crito*, 50 D; *Isoc.* 7, 45). Plutarch also informs us (*Sol.* 22) that the son of a *ἐραίπα* was not compelled to support his parents. Again, if the father had been the means of corrupting the son, the latter, on reaching maturity, was not obliged to support his father, or even to give him shelter. Nevertheless,—and here again the undercurrent of religious feeling is seen,—even such an unnatural father had the right to expect the son to bury him and perform the religious rites, as we have observed (*Aeschin.* 1, 13); in short, it would seem that under no circumstances was the son permitted to ignore this sacred duty.

Such were the relations existing between father and son; and in the preceding chapter certain of the relations between father and daughter have been noted incidentally. And, while it is true that the power of the Athenian over his daughter fell far short of the *patria potestas* of the Roman father, yet we find that in certain directions the Athenian father's authority was unquestioned; as, for example, in matters relating to marriage, and in the power which the father possessed to sell into slavery a daughter who had been discovered to be guilty of unchastity

* But, as Becker points out (*Charicles*, p. 85 note) this law was probably ineffective.

(see Plut. *Sol.* 23). Of course the obligations to religion and to the State determined, to a large extent, the father's attitude toward his daughter. With respect to the inheritance, we shall observe that the daughter's rights—limited though they were—were defined with reasonable clearness, for the most part.

It has been seen that there was no question as to the disposition of the property if a man left legitimate sons; that in this case the sons inherited equally, and that the law forbade the father to bequeath his property to any one else (Isae. 6, 28). When there were sons and daughters the matter was equally clear; the sons inherited, and the property became theirs immediately, without process of law (Isae. 6, 46). When a father died, leaving a daughter, but no sons, the daughter inherited, but in a peculiar manner. It has been stated that a man without legitimate sons could dispose his property by will according to his pleasure (Isae. 2, 13; 6, 9; Dem. 20, 102; [Dem.] 46, 14). We read, however, in Isaeus 3, 42: οὔτε γὰρ διαθέσθαι οὔτε δοῦναι οὐδενὶ οὐδὲν ἔξεστι τῶν ἐαυτοῦ ἄνευ τῶν θυγατέρων, εἴαν τις καταλιπὼν γνησίας τελευτᾷ. So, also, in Isaeus 10, 13, the speaker asserts that a father who has no sons cannot make a will disinheriting his daughters. The broad statements cited above, therefore, to the effect that a man without sons, and otherwise qualified according to law, can dispose of his property by will according to his pleasure, necessarily refer to a man who has no daughters; and in Isaeus 3, 68, the speaker, after asserting that a man without legitimate sons can bequeath his property as he wishes, adds: ἂν δὲ θηλείας καταλίπη, σὺν ταύταις οὐκοῦν μετὰ τῶν θυγατέρων ἔστι δοῦναι καὶ διαθέσθαι τὰ αὐτοῦ. So, also, in the Demosthenic speech *Against Makartatus* (§51)—an interesting document—the law is cited at length, which corroborates Isaeus' statement and clearly indicates that the inheritance rights of the daughters cannot be ignored. *With the daughters*, then, the father can give or bequeath his property, *but not irrespective of the daughters*. The speaker in the oration of Isaeus, just cited (3, §§68, 69) goes on to say that if the father, ignoring a daughter, had adopted a son, the adoption would have been invalid; that such an adopted son could succeed to the inheritance only by marrying the daughter (cf. §42; Id. 10, 13). In the same connection, we may cite a

passage from Demosthenes (41, 3), according to which the father has two daughters, but no sons; he thereupon adopts his wife's brother, and gives to the latter his younger daughter in marriage.

It is evident, then,—as Schömann specifically points out,—that an Athenian having daughters, but no sons, was virtually under obligations to adopt a son, who in turn should be required to marry one of the daughters * (*Antiquities of Greece*, pp. 356-357); for only in this way could an Athenian, in many cases, be reasonably assured of an heir who should perpetuate the adoptive father's name and the family cult, and discharge the obligations to the State. It is not, therefore, surprising that failure on the part of the adopted son to marry the *ἐπίκληρος* invalidated the will and the adoption, and placed it in the power of the next of kin to claim the heiress in marriage (see Wyse, *Commentary*, p. 334). And, on the other hand, by the marriage of the adopted son and the daughter, in conformity with the father's wishes, and in accordance with the requirements of the inheritance laws, the woman immediately ceased to be an *ἐπίκληρος*, and all the rights and responsibilities of the heir were legally vested in her husband.

It is obvious that the relations of an Athenian to his daughters, his sons-in-law, and his grandsons varied greatly, according to whether his daughter was an *ἐπίκληρος*, or whether she had a brother or brothers living who should themselves succeed to the inheritance. If an Athenian had sons and daughters, and had given his daughters in marriage to men outside the family, his relations to his daughters and their children would, theoretically, be purely those of affection; neither his daughters nor their children would necessarily have material interests in his property, nor would they observe the same domestic cult which he himself celebrated. If, on the other hand, an Athenian had a daughter, but no sons, and adopted a

* Wyse thinks that an Athenian father might, if he chose, bequeath his daughter and his estate to a man who was not adopted (cf. Aristoph. *Wasps*, 583). "In this case," Wyse remarks (*Commentary*, pp. 329, 330), "the daughter would be the *ἐπίκληρος* in the strictest sense, and her son or sons, on attaining their majority, would enter into possession of the property."

son who was to marry the daughter, the latter, her husband, and her children, would all be members of the same house—the *oikos* of which the woman's father was the duly authorized head—and would be interested in the same domestic cult and in the same inheritance obligations. And the relations of the Athenian to this son-in-law would be peculiarly intimate, since the son-in-law was also the adopted son, and the lawful heir of the father-in-law. So, too, the grandsons would doubtless be viewed with particular favor, as the ultimate heirs of the inheritance.

A painful impression of the relations which might sometimes arise between an Athenian, on the one hand, and his daughter and her children, on the other hand, is gained by a perusal of the 32d oration of Lysias. Diodotus, an Athenian citizen, had married the daughter of his brother Diogeiton, and had two sons and a daughter. After some years, leaving his wife and children in his brother's charge, Diodotus engaged in military service, and eventually died abroad. Before his departure, Diodotus had made a will, formally appointing his brother guardian of his family, and leaving his property in his brother's hands, to be held in trust for his wife and children, in case of his own death (§§4 ff.). The brother Diogeiton, however, shamefully abused his trust; he appropriated most of the estate to his own use, defrauded his daughter of part of her husband's property, and grossly neglected her children, finally turning his eldest grandson adrift to shift for himself, and asserting that he had now expended for the support of his grandchildren more than the amount left for them by their father (§§8 ff.). It then became necessary for the unfortunate woman—Diogeiton's own daughter—and her children, to resort to law, in order to compel the unnatural Diogeiton to restore the property which was rightfully their own. The heartlessness of Diogeiton, and his brutal treatment of his own daughter and her children, is amazing; he deliberately undertakes to disinherit his grandsons (§§12-18). Perhaps it would be unfair to regard this as a typical case; and it certainly would be as unreasonable to base our estimates of Athenian family life solely on the records of the law courts as it would be to judge modern society in the same manner. Nevertheless, this mournful nar-

rative indicates a deplorable lack of honesty and integrity—to say nothing of an absence of all natural affection—on the part of a representative Athenian citizen.

Returning now to a consideration of the position of the *ἐπίκληρος* and her children, I desire again to quote Perrot, as his insight is especially clear and his mode of expression most happy. He says of the heiress who, after her father's death, had married her nearest male relative: "The inheritance was not transmitted to the daughter, but with the daughter. It did not belong to the woman, who, held in a perpetual state of legal incapacity, was disqualified to possess it. It belonged still less to the husband, who was a member of another family, and celebrated another domestic cult." The husband, then, was the guardian or trustee, having only the usufruct of the estate during his child's minority (see Wyse, *Commentary*, pp. 352, 515), and the estate was held in trust for the son born from this marriage. "When this son had attained to his majority," continues Perrot, "he left his father's house, and, although his father and mother were still living, he took possession of the estate of his maternal grandfather" (*L'Éloquence Politique et Judiciaire à Athènes*, pp. 371 ff.). Passages from the orators fully corroborate these observations of Perrot's (Isae. 8, 31; 10, 12; 3, §§50, 73; *Frag.* 18, 25; [Dem.] 43, §§12, 77 ff.; 46, 20); and we observe that the son of the *ἐπίκληρος*, after having been received by adoption into his grandfather's family, as its representative, became his mother's custodian, even though his father were still living.* We observe also that the *ἐπίκληρος* was not, strictly speaking, an heiress, according to our understanding of the word; as Perrot suggests above, the word signified to the Athenian, "she who accompanies an inheritance"; or, as Jevons literally renders the word, she who was "on the estate" (*Manual of Greek Antiquities*, p. 543). She did not inherit independently, as the son did; she was, as Wyse expresses it, "only the intermediary by whom the estate is transmitted to a male of the same blood as her father" (*Commentary*, p. 609; cf. *Der attische Process*, pp. 575-576). Her peculiar position, as merely an instrument or a

* This, however, is disputed by some scholars (see Wyse, p. 667).

piece of machinery in the inheritance system, is illustrated by the extraordinary custom—noted in the previous chapter—of sometimes requiring an Athenian married woman who had become an heiress through the death of a brother, to separate from her husband and marry the next of kin. If this ever actually took place,—and Isaeus, it will be remembered, declares emphatically that it did,—the woman's children by her second marriage would, of course, succeed eventually to their maternal grandfather's estate, displacing their parents in the possession of the property on reaching maturity; for in this manner, the Athenian reasoned, the family lines would best be preserved. On the other hand, any children of the woman by her former marriage would have no inheritance rights to their grandfather's property, since their father was either unrelated by blood to their mother,* or was more remotely related than their mother's second husband (cf. Wyse, *Commentary*, p. 450).

* In connection with the subject of the *ἐπίκληρος* and her sons, we are confronted by the problem as to whether all the sons of the *ἐπίκληρος* had equal inheritance rights in the property of their maternal grandfather, or whether the grandson who had been formally adopted into his grandfather's *φρατρία* gained thereby exclusive rights to the grandfather's *sacra* and to the inheritance. Wyse discusses this problem as exemplified in the case of one Sositheus and his sons, recorded by Pseudo-Demosthenes in the 43d oration. Wyse says of Sositheus: "At the time of the trial he and his wife, Phylomache, daughter of Eubulides, had four sons. The eldest son, Sosias, had come of age and was a member of his father's *φρατρία*. The 2d son was a minor, and had recently been enrolled in the *φρατρία* of Eubulides as son of Eubulides. The 3d and 4th sons, also minors, were presumably in their father's *φρατρία*. The adoption (*ἐκποίησις*) made the 2d son heir of the *sacra*, and representative of the house of his maternal grandfather. Did it also have the effect of transmitting to him the succession to the whole of his grandfather's property? . . . Or did each of his three brothers retain a right to an equal share, although they were not members of Eubulides' *φρατρία*, and were not considered sons of Eubulides? No clear answer can be given to these questions. Part of the law on the subject is preserved in (Dcm.) 46, 20, καὶ ἐὰν ἐξ ἐπικλήρου τις γένηται, καὶ ἅμα ἡβήσῃ ἐπὶ δίετες, κρατεῖν τῶν χρημάτων, τὸν δὲ σίτον μετρεῖν τῇ μητρὶ. These words admit the possibility that the first son born to the *ἐπίκληρος* had an exclusive right to the succession of his maternal grandfather, whereas Isaeus' interpretation of the law excludes it; for in three passages he speaks in the plural of the children of the *ἐπίκληρος*

It is evident that the position of the Athenian daughter, and particularly that of the *ἐπίκληρος*, was exceedingly perilous, and it is unfortunate that the orators, and especially Isaeus, have not defined her rights with absolute clearness. Isaeus, it is true, states emphatically that the legitimate daughter should not claim her inheritance by an award of the court, but should enter upon the possession of her patrimony like a legitimate son; that, furthermore, if any one attempts to rob her of any of it, he is subject to private action and public prosecution, is likely to lose his property, and even brings himself into personal peril (3, §§59-62). It will be observed that in this passage the rights of sons and daughters are nearly, if not wholly, identified. But in the succeeding passage (3, §§63 ff.) the speaker maintains that the same daughter, if legitimate, could be claimed in marriage by the next of kin, in the order of intestate succession; that is to say, that her position was not identical with that of the son, since she was not the independent

as if all sons inherited without any distinction; see VIII, 31, . . . X, 12, . . . Fr. 90 Sauppe Nowhere in our existing authorities is transference to the house of the maternal grandfather made a condition of receiving the estate, nowhere do we read of any privilege accruing to the son who leaves his father's family in order to maintain the continuity of the house of his mother's father. Yet in spite of this silence it is difficult to believe that a son selected to discharge this duty was placed in a worse position than his brothers, as he would have been, if he could only claim lawfully his quota of the grandfather's property, since the adoption broke the bonds which connected him with his father and deprived him of all rights in his father's estate. The analogies found in Hindoo and Jewish customs support the hypothesis that the son who was transferred took over both the cult and the wealth of his grandfather. . . . Now it is certain that the laws of Solon did not agree in detail with the regulations attributed to Moses and Manu, but it is also plain that the motive which originally inspired all these rules was one and the same, the desire to enable a father who had only a daughter to make himself a son by means of a legal and religious fiction, and so secure a successor. . . . I am not prepared to accept . . . the conclusions reached by Hruza (I, p. 91, n. 7) that at Athens in the 4th century adoption into the house of the father of the *ἐπίκληρος* was not only not a condition of inheriting the estate, but actually gave the adopted son no advantages over his brothers who remained in the family of their father (*Commentary*, pp. 360-362).

heir and owner of the property (as we have seen), but was herself inherited as an accompaniment of the estate. Thus we are impressed anew by the thought that all the safeguards which were thrown about the inheritance and the heiress were created, not for the ultimate benefit of the woman herself, but for her child—the grandson of the original possessor of the property. And it will be observed that all these arrangements were strictly in accord with the principles of inheritance law, which insisted so strenuously that the property be kept within the family, by reason of the obligations to religion and the State; for only in this manner, the Athenians reasoned, could the largest benefits accrue to the State, and consequently to the family and the individual; and since, as Perrot has indicated, neither the “heiress” nor her husband were qualified to possess the inheritance for themselves and discharge the obligations entailed, therefore the son of the *ἐπίκληρος* was the inevitable heir (cf. Schömann, *Antiquities of Greece*, p. 356). It is not strange, then, that special ordinances were established for the benefit of the heiress (cf. 'Αθ. πολ. 56, 6; Poll. 8, 53; Dem. 37, 45), who was considered to be under the special protection of the State (see Boeckh, *Public Economy of Athens*, p. 357), and whose interests the archon was required to protect ([Dem.] 43, 75); for it was always to the interest of the State that the hereditary public services of a distinguished family should be perpetuated by the son of the heiress, and his successors.

In connection with the subject of the rights of parents and children, the question of disinheritance demands at least a passing glance. The subject is a difficult one, however, and is attended by much uncertainty; and even the exact interpretation of the word ἀποκηρύξαι is disputed. The older authors, as

Meier & Schömann point out (*Der attische Disinheritance. Process*, pp. 535 ff.), shed no light on the subject; and the scattering observations of later writers are inconclusive and somewhat contradictory. Plato (*Laws*, 928 D ff.) would permit a father to disinherit his son only after the step had been approved by a family council. Meier & Schömann (p. 537) think that at Athens the son could be formally repudiated only by the authority of the court.

Dionysius of Halicarnassus (2, 26) testifies that, according to the legislation of Solon, a father had the authority to repudiate a disobedient son. Lucian's work, entitled *Ἀποκηρυπτόμενος*, because of its fictitious character sheds no clear light on the subject. The tradition that the father of Themistocles repudiated his ungovernable son (*Nep. Them.* 1; *Val. Max.* 6, 9) is declared by Plutarch to be untrue (*Them.* 2). Meier & Schömann think it probable that the son who had been removed from his father's house retained his rights as a citizen and as a member of a family, but that the peculiarly close relations existing between father and son, especially as regards inheritance rights, entirely ceased (*Der attische Process*, p. 538). Jevons cites a passage from Aristotle (*Nic. Eth.* 8, 14, 4), which seems to indicate that even though the power of disinheriting a son might exist theoretically, yet it was impossible to think that such a power was actually exercised; and the same critic concludes that the practice of disinheritance was practically non-existent; and that, even though the right was occasionally exerted, yet it "could only be exercised under such circumstances as the law considered to justify the proceeding" (*Manual of Greek Antiquities*, p. 557).

The rights of legitimate children, whether sons or daughters, were, in the main, defined with reasonable clearness. As to what constituted legitimacy, we may note that **Legitimate Children.** Pollux (3, 21) defines the *γνήσιος* as one born of a woman who was a citizen of Athens and a duly wedded wife. In Pseudo-Demosthenes (46, 18) a law is cited which defines the conditions under which the Athenian woman whose children are to be regarded as *γνήσιοι*, is to be betrothed in marriage: *Ἦν ἂν ἐγγυήσῃ ἐπὶ δίκαιοις δάμαρτα εἶναι ἢ πατὴρ ἢ ἀδελφὸς ὁμοπάτωρ ἢ πάππος ὁ πρὸς πατρός, ἐκ ταύτης εἶναι παῖδας γνησίους.* (Cf. [Dem.] 44, 49.) We thus observe that those sons and daughters were held to be legitimate who were born of Athenian women duly betrothed and given in marriage by their properly authorized guardians,—whether father, brother, or grandfather,—in accordance with the requirements of law. We have seen that, in a lawful marriage, it was required that both husband and wife be citizens of Athens (cf. [Dem.] 59, §§16, 17; *Plut. Pericl.* 37); and we

have had occasion to refer in particular to passages from Isaeus (see 8, 19; 7, §§15, 16; 12, 9), in which the father makes oath, when presenting his son by birth or adoption to the members of his phratry, that the boy was born of a duly wedded wife who was a citizen of Athens (ἐξ ἀστῆς καὶ γαμετῆς γυναικός),—a ceremony which was important as an evidence of the child's legitimacy, but apparently regulated by the custom of the particular phratry or deme rather than required by the law of the land (see Jevons, *Manual of Greek Antiquities*, pp. 451, 551-552).

Illegitimate children, on the other hand, were regarded with disfavor, since, under the influence of the religious idea, the birth of such a child was looked upon as polluting the city and profaning the family altars. As to the definition of the word νόθος,

we may note that Athenaeus (13, 577, 38) speaks of the law which defines the νόθος as one born of a woman not a citizen; while Pollux (3, 21) defines a νόθος as the child of an alien woman or a concubine. It is evident, however, that these definitions are inadequate. Zimmermann (*De Nothorum Athenis Condicione*, pp. 5, 7) remarks that besides the definitions of νόθος ordinarily accepted by scholars, namely, children born out of wedlock of Athenian parents, or children whose father was an Athenian citizen, but whose mother was an alien or a concubine,—that, in addition to these, the classes of νόθοι included children whose mother was an Athenian citizen but whose father was a foreigner or a slave, and children born in concubinage of an Athenian father and a slave woman.*

Legislation regulating the status of the νόθοι was enacted by Solon, according to whose measures all rights of inheritance were denied to illegitimate children. This is shown in a passage from the *Birds* of Aristophanes, wherein Heracles is dis-

* Zimmermann (*op. cit.* p. 7) adds to the above definitions of νόθος the following, which I give in the writer's words, without comment: "Praeter hos nothos concubinatu procreatos fuit alterum Athenis nothorum genus, eos dico liberos, qui ex iusto matrimonio prodierunt a cive Attico cum peregrina muliere, cui connubium non erat, inito, cuius generis exemplum Plutarchus in vita Themistoclis . . . praebebat."

tinctly told by Peithetaerus that he has no inheritance rights whatever, because he is a νόθος and not a γνήσιος (vss. 1649-1650); that he is excluded not only by Athena the heiress (cf. Suid. s. v. ἐπίκληρος), but also by Poseidon the legitimate brother of Zeus (vss. 1652 ff.). The speaker then cites the law of Solon applying in the case of Heracles (vss. 1660 ff.):

ἔρῳ δὲ δὴ καὶ τὸν Σόλωνός σοι νόμον*
 Νόθῳ δὲ μὴ εἶναι ἀγχιστεῖαν, παίδων ὄντων
 γνησίων. ἐὰν δὲ παῖδες μὴ ᾖσι γνήσιοι, τοῖς
 ἐγγυτάτῳ γένους μετεῖναι τῶν χρημάτων.*

That this regulation was in force in the times of the orators is conclusively shown in a passage from Pseudo-Demosthenes (43, 51), and in one from Isaeus (6, 47); the latter passage reads as follows: Τοῦναντίον τοίνυν συμβέβηκεν ἢ ὡς ὁ νόμος γέγραπται· ἐκεῖ μὲν γάρ ἐστι νόθῳ μηδὲ νόθῃ εἶναι ἀγχιστεῖαν μήθ' ἱερῶν μήθ' ὁσίων ἀπ' Εὐκλείδου ἄρχοντος. These passages make it clear that illegitimate children were not only not permitted to inherit property, but that they were prohibited from participating in religious observances. And, indeed, the expression τὰ τε ἱερὰ καὶ τὰ ὄσια — *sacra profanaque*—is broad enough, as Wyse points out (*Commentary*, p. 535), to include all the rights of a citizen (Dem. 23, 65; [Dem.] 55, 104); but when used by Isaeus in connection with ἀγχιστεία, undoubtedly refers to the family worship and the inheritance only (Isae. 9, 13; Dem. 39, 35).

It seems reasonably clear, therefore, that illegitimate children of all classes, from the time of Solon to the close of the period of the orators, were excluded from inheritance rights—with the exception of the νοθεῖα †—and the right to participate in religious observances. Although such children may have

* In regard to certain difficulties of interpretation in the latter part of the passage cited, see Wyse, *Commentary*, p. 535.

† Although the νόθος was placed at a tremendous disadvantage as compared with a legitimate son,—the γνήσιος,—yet the former was not necessarily left destitute. We learn that an Athenian father, although forbidden by law to transmit an inheritance to an illegitimate son, could nevertheless leave to such a son an amount sufficient for his support—the νοθεῖα. The amount of such a bequest was limited by law to 500 or 1000 drachmae—both amounts are given (see Harpoc. and Suid. s. v. νοθεῖα; cf. Schol. Aristoph. *Birds*, 1656).

been recognized as belonging to their mother's tribe, and may eventually have been admitted to her deme, yet they could not properly be introduced into their father's phratry,* because, as Gilbert observes, "the father could not take the necessary oath that the child was born of a free Athenian woman betrothed to him by ἐγγύησις" (*Greek Constitutional Antiquities*, pp. 190-191). Moreover, it would certainly have been a gross impropriety to admit to the sacred observances children of the class mentioned, even though they were of pure Athenian blood, in view of the dominating influence of the religious idea in the inheritance system.

* Although the evidence at our disposal seems clearly to show that illegitimate children, during the times of the orators, were rigidly excluded from inheritance rights and religious observances, yet there is one passage, at least, which to some scholars seems to indicate that an illegitimate son could be introduced into his father's φπατρία, and thereby rendered legitimate. This passage is found in Isaeus 6th oration (§§18 ff.), and has already been discussed and referred to in other connections. It will be remembered that, according to this narrative, an aged man, Euctemon by name, infatuated with a freed-woman of low character, named Alke, deserted his own family and undertook to introduce one of the woman's sons into his phratry, under his own name; that his own son, Philoctemon, protested, and for a time prevented his father from accomplishing his purpose, but eventually acquiesced, in order to avoid worse complications and further scandals; whereupon Alke's son was duly enrolled. A number of eminent authorities look upon this narrative as affording evidence that an Athenian father, by thus introducing an illegitimate son into his φπατρία, could confer a son's full rights and privileges upon him. Among these authorities are the authors of *Der attische Process* (p. 532), Schömann in his *Commentary on Isaeus* (p. 336), Zimmermann (*op. cit.* pp. 9, 10), and Thalheim-Hermann (*Griechischen Rechtsaltertümer*, p. 8). But the narrative involves peculiar difficulties; for, briefly stated, such an act on the part of an Athenian father would have been a deliberate violation of the principles of inheritance law, and a gross infringement upon the son's rights. In view of these considerations, and of the orator's silence with respect to certain important points in the case,—to say nothing of obscurities and inconsistencies in the speech (see Wyse's introduction and analysis of the oration, and his criticisms on §§17 ff.),—I am disinclined to accept the conclusion reached by the authorities named, and I prefer to adopt the view of Wyse (*Commentary*, pp. 483 ff.) and Müller (*op. cit.* pp. 711 ff.), that Isaeus' 6th oration affords no conclusive proof of the correctness of the theory in question.

The question of the political status of the *νόθοι* during the Age of Pericles and the period of the orators constitutes a far more perplexing problem than the question of their inheritance rights. In general, it may be said that most authorities consider that the *νόθοι* did not enjoy the rights of citizenship, although there is a division of opinion among scholars as to whether it was a law of Solon or of Pericles that denied the *νόθοι* such rights (see Zimmermann, *De Nothorum Athenis Condicione*, pp. 3, 27). Schömann (*Antiquities of Greece*, pp. 357, 358) thinks that Pericles merely restored a law of Solon, which, with the lapse of time, had fallen into disuse, and which excluded from the rights of citizenship the sons and daughters of Athenian fathers and non-citizen mothers. "But soon after," continues Schömann, "it again fell into desuetude, and hence was renewed by Aristophon in the year 403, after the overthrow of the Thirty. It was now, however, less sweeping than before, inasmuch as the citizenship possessed by sons of a non-citizen mother was not withdrawn from them, but it was only enacted that for the future those born of such mothers after the Archonship of Eucleides (*i. e.* after the year 403) should be excluded"* (*op. cit.* p. 358; cf. Andoc. I, §§83, 87; Athen. 13, 577, 38; Dem. 57, 30; Isae. 8, 43; Gilbert, *op. cit.* p. 187; Zimmermann, *op. cit.* pp. 43, 44).

Schömann (*op. cit.* p. 357) draws a line of demarcation between those *νόθοι* "who had a citizen father, but a foreign mother not endowed with Epigamia, and those who had, as their mother, an Athenian woman indeed, but one who was living with the father in a connection not recognized by the law." "The former class," Schömann observes, "are said to have possessed the rights of citizens in earlier times, until a law of Pericles took these from them. . . . As to the condition of those whose mother was a citizen but their father a foreigner not endowed with Epigamia, we

* Zimmermann (*op. cit.* pp. 44, 45 ff.) calls attention to the fact that prior to 403 many eminent Athenians had married foreign women, and also that certain Athenians, afterwards distinguished for their services to the State, had been born prior to 403, of foreign mothers. This would indicate that, during the 5th century, *νόθοι* of the class indicated were regarded with indulgence, and that in certain instances such *νόθοι* probably enjoyed the rights of citizenship.

have no information from our authorities. The case certainly was of very rare occurrence. We must assume that such children followed the status of the father, and were consequently non-citizens. . . . But the question whether, when a citizen woman had formed a connection with a slave, her children were also slaves, we leave undiscussed" (*Ibid.* p. 358).

The trend of later legislation with respect to the political status of the *νόθοι*, and the condition of certain classes of the latter during the 4th century B. C., is summarized by Gilbert as follows (*op. cit.* p. 188): "In the course of the 4th Century these enactments about the franchise were made still more severe by the absolute prohibition of mixed marriages both between citizens and alien women, and also between aliens and Athenian women; if the law was broken, the alien offenders were to be sold into slavery. These rigorous laws, however, do not seem to have been strictly carried out; at any rate they failed to exclude the half-bloods from citizen-rights in practice. The foisting of their names into the burgess-rolls remained a busy and successful trade, as is clearly proved by the *διαψήφισις* or revision of lists carried out in 346-5 B. C., when many such intruders were rejected from the burgess-body."

The political status of illegitimate children of Athenian parentage during the 4th century constitutes an exceedingly perplexing problem. No direct and explicit statement bearing upon this theme is to be found in our ancient authorities. The majority of scholars now entertain the belief that such illegitimate children were admitted to the citizenship, on the ground that their Athenian parentage entitled them to the privilege not enjoyed by the offspring of Athenians and aliens. Prominent among scholars who hold this view are Meier & Schömann (*Der attische Process*, pp. 439, 533), Thumser-Hermann, (*Griechischen Staatsaltertümer*, p. 449), Gilbert (*op. cit.* pp. 190-191), and Hruza (*op. cit.* II p. 89). But Zimmermann (*op. cit.* pp. 27 ff.), Müller (*op. cit.* pp. 732 ff.), and Buermann (*op. cit.* pp. 635 ff.) take the opposite view. It is unprofitable to invoke, in this connection, the 3d oration of Isaeus, as affording conclusive evidence that *νόθοι* of the class mentioned were admitted to citizenship, because, in general, the oration is

marred by obscurities and inconsistencies (see Wyse's analysis and introduction, pp. 273 ff.). Moreover, Wyse has shown in an elaborate discussion that a much-quoted passage from the 'Αθηναίων Πολιτεία, 42, beginning, μετέχουσιν μὲν τῆς πολιτείας οἱ ἐξ ἡμφοτέρων γεγονότες ἀστῶν . . . cannot be regarded as proving definitely that the νόθοι "whose political status was in dispute, were admitted to a deme, and, consequently, to the citizenship" (*op. cit.* pp. 280 ff.). The problem, therefore, appears to be insoluble.

A remarkable phenomenon of Attic law is presented to us in the oration of Isaeus entitled *On the Estate of Hagnias*.

Here we observe that the mother of Hagnias was one of the claimants of the inheritance, first, on the general ground of kinship, and again, on the particular ground of being the mother of the deceased (see §§16, 17, 21); but she was unsuccessful, and in connection with her second claim Isaeus remarks (§17), that the mother, although most closely related to her son by blood, did not possess the right of inheriting his property;* as Isaeus

* McLennan, in his work entitled *Primitive Marriage* (see *Studies in Ancient History*, pp. 209 ff.), comments upon the remarkable doctrine that there was "no affinity between mother and child" from the point of view of the Attic law, and thinks that this view received "its earliest and best expression in the *Eumenides* of Aeschylus, who distinctly represents it as a new doctrine." "The plea which succeeds in the trial of Orestes," continues McLennan, "is that he was not of kin to his mother Clytemnestra. . . . The jury are equally divided on the plea, and Orestes gains his cause by the casting vote of Athene."

"The basis of the suit is the claim of the Erinnyes to the right of punishing matricides. This was their function, by special ordination, as representing a time when kinship through the mother was unquestioned. The claim is disputed. Would they, asks Orestes, drive from his home the slayer of a wife, that had killed her husband? The Erinnyes answer:

'That would not be kindred blood shed by the hand of a relative.'

'What,' asks Orestes, 'do you call *me* related by blood to my mother'?

"On this they open upon him with reproaches. . . . They are shocked at his impiety; and their horror increases on discovering that he is not alone in holding the new view—that it is adopted by the gods." . . .

expresses it, ὁ συγγενέστατον μὲν ἦν τῇ φύσει πάντων, ἐν δὲ ταῖς ἀγχι-
στείαις ὁμολογουμένως οὐκ ἔστιν.*

With a few observations on the attitude of the ancient Greeks toward the stepmother this chapter will be concluded.

In a striking passage from the *Alcestis* of **The Stepmother.** Euripides (vss. 304 ff.) the dying heroine implores her husband not to wed again after her death, and expresses the fear that a stepmother would treat the children with cruelty. She adds (vss. 309-310):

"On judgment being pronounced against them," continues McLennan in his discussion of the play (p. 212), "the Erinnyes are plunged in despair. . . . 'Ye younger gods, ye have overridden the old laws and have taken him out of my hands.'"

"The lamentation and wail of dishonor are afterwards repeated with outcries which farther fix the attention on the fact that the new doctrine was subversive of old beliefs."

McLennan argues that the views of kinship found in this play were those which prevailed in the time of Aeschylus, not of Orestes (p. 213). He remarks: "The solemn adjudication in the *Eumenides* that there is no kinship between mother and child, and the acquittal on that ground of Orestes, seems to me in remarkable contrast to the Homeric account of Epicaste (Hom. *Odys.* xi, 271)."

* Wyse is reluctant to accept the principle so clearly laid down by Isaeus, and concludes, although without sufficient reason, I think, that the orator is inconsistent and untruthful, and that he has suppressed important facts bearing upon the situation (*Commentary*, pp. 673, 674, 692 ff.). But I cannot see that an advocate should be censured and accused of duplicity because he does not emphasize facts or theories detrimental to his client's case. Wyse also regards another passage from the same speech (§30) as apparently contradicting the principle above mentioned. The passage is perplexing, to be sure; for the speaker, discussing the rights of succession, seems to rank the mother among the kinsfolk on the mother's side, while at the same time maintaining that her sons, the brothers of the deceased, had a prior right to the inheritance. Schömann in his *Commentary on Isaeus* explains the apparent discrepancy between the two passages by suggesting that the speaker is momentarily changing his point of view, in thinking of the woman's relationship; that is to say, he is regarding her not as the mother of Hagnias, but as a cousin on the father's side. Sir William Jones, who takes a similar view, says of the mother of Hagnias: "She bore a double relation to Hagnias both as his mother and his second cousin; for she was the sister of Stratius, and the *soror consanguinea* of Theopompus himself" (*Works*, Vol. iv, p. 218).

ἐχθρὰ γὰρ ἡ 'πιούσα μητρὶὰ τέκνοις,
τοῖς πρόσθ', ἐχίδνης οὐδὲν ἡπιωτέρα.

In the *Ion* of Euripides (vs. 1025) occur the words, φθονεῖν γάρ φασι μητρὶὰς τέκνοις. Hesiod in his *Works and Days* characterizes lucky and unlucky days as μητέρες and μητρὶαί respectively (vs. 823) ; and Aeschylus in his *Prometheus Vinc-tus* (vs. 727) speaks of the dangerous rocky coast of Salmydessus as μητρὶὰ νεῶν. Jerram in his edition of the *Alcestis*, in commenting on line 305, says: "In an epigram of Callimachus we are told how a boy went to place a garland on his stepmother's tomb, which fell upon him and crushed him." . . . These citations will sufficiently illustrate the unfriendly manner in which the stepmother was regarded by the ancient Greeks.

CHAPTER VII.

THE ADOPTED SON AND HIS RELATIONS TO HIS ADOPTIVE FATHER.

Before entering upon a detailed discussion of the relations existing between adoptive parents and their adopted children, it seems appropriate to point out an important difference between the family of ancient times, as conceived and constituted,* and the family of to-day,—a difference resulting from the widely prevalent custom of adoption

Difference between the Ancient and the Modern Family. among ancient peoples. Maine, *Ancient Law* (pp. 133-134), says: "The family . . . is the type of an archaic society in all the modifications which it was capable of assuming; but the family here spoken of is not exactly the family as understood by a modern. In order to reach the ancient ideas we must give to our modern ideas an important extension and an important limitation. We must look on the family as constantly enlarged by the absorption of strangers within its circle, and we must try to regard the fiction of adoption as so closely simulating kinship that neither law nor kinship make the slightest difference between a real and an adoptive connexion. . . . The persons . . . amalgamated into a family by their common descent are practically held together by common obedience to their highest living ascendant, the father, grandfather, or great-grandfather; . . . and . . . we must understand that if there be any persons

* The writer does not consider it within the province of this dissertation to enter upon the general question of slavery among the Athenians, or to discuss in particular the relations of master and slave, notwithstanding Aristotle's well-known conception of the family as being formed by nature, not only by the union of husband and wife, but also of master and slave (*Pol.* 1, 2, 2-5). In treating of the fundamental constituents of the family, Aristotle discusses the subject with reference to the relations (1) of master and slave, (2) of husband and wife, (3) of father and child (*Pol.* 1, 3, 1 ff.).

who, however truly included in the brotherhood by virtue of their blood-relationship, have nevertheless de facto withdrawn themselves from the empire of the ruler, they are always, in the beginnings of law, considered as lost to the family. It is this patriarchal aggregate—the modern family thus cut down on one side and extended on the other—which meets us on the threshold of primitive jurisprudence.”

With regard to the antiquity and importance of the institution of adoption, Maine also remarks (*Ibid.* pp. 130-131): “The earliest and most extensively employed of legal fictions was that which permitted family relations to be created artificially, and there is none to which I conceive mankind to be more deeply indebted. If it had never existed, I do not see

how any one of the primitive groups, what-
The Beneficent ever were their nature, could have absorbed
Influence of another, or on what terms any two of them
Adoption. could have combined, except those of absolute superiority on one side and absolute

subjection on the other.” Our authority also presents the interesting view that the institution of adoption imparted elements of permanence and solidity to ancient families and early societies. And when we consider that the patriarchal or family group undoubtedly constituted the unit of antique society (see Maine, *op. cit.* pp. 183-185, 126; McLennan, *Studies in Ancient History—Primitive Marriage*, pp. 88 ff.) and that each group became virtually an undying corporation, we realize afresh the immense influence exerted by the institution of adoption.

When we consider in detail the status of the adopted son, we immediately note a striking contrast between Rome and Athens with respect to the methods and character of adoption. Perrot admirably brings out this difference, when he says: “Adoption (at Athens) does not appear to have had the same originality and power as at Rome, nor to have been surrounded with cere-

monies as solemn, nor to have so pro-
Contrast between foundly influenced the situation of the
Adoption at Athens adopted. . . . The law at Athens had
and at Rome. not the same power to create artificial
bonds as at Rome; this parent of choice
that adoption created was not to the same degree identified with

the parent of flesh and blood" (*L'Éloquence Politique et Judiciaire à Athènes*, pp. 367, 369). Perrot observes further, that at Rome the adopted son had the same rights as the son by birth, but not at Athens. When, however, we consider in detail the status of the adopted son, and when we reflect upon the nature of his duties and the motives for adoption, it will become evident, I think, that at Athens the theory of adoption, at least, contemplated the bestowal of full rights and privileges upon the adopted son.

That Isaeus appreciated the importance of adoption is evident, for he speaks approvingly of it, and also notes its universality, both among "Greeks and barbarians" (*Or.* 2, 24; cf. *Ibid.* §45). And it is evident that the Athenians, as a whole, regarded adoption not merely as the right of childless men, but as their duty, and a matter in which the state was vitally concerned; for Isaeus remarks (7, 30): πάντες γὰρ οἱ τελευτήσειν μέλλοντες πρόνοιαν ποιοῦνται σφῶν αὐτῶν, ὅπως μὴ ἐξερημώσουσι τοὺς σφετέρους αὐτῶν οἴκους, . . . διὸ κἂν ἄπαιδες τελευτήσωσιν, ἀλλ' οὖν υἱὸν ποιησάμενοι καταλείπουσι. καὶ οὐ μόνον ἰδίᾳ ταῦτα γινώσκουσιν, ἀλλὰ καὶ δημοσίᾳ τὸ κοινὸν τῆς πόλεως οὕτω ταῦτ' ἔγνωκε.

Before entering upon a discussion of the institution of adoption as practiced by the Athenians, it seems appropriate to speak of the dominant motives which prompted the Athenians to resort to adoption so frequently. One of the chief motives

has already been pointed out, namely, the influence of the religious feeling, which made it obligatory upon the Athenian, for the sake of his ancestors, his own welfare, and the prosperity of

Motives for Adoption. the State, to perpetuate the family line and the family worship by insuring for himself male descendants. This religious feeling explains certain of the regulations concerning adoption which might otherwise appear unreasonable; as Jevons expresses it, "The condition under which adoption was permitted by law was naturally determined for the most part with reference to the object aimed at" (*Manual of Greek Antiquities*, p. 550). In the 2d oration of Isaeus (§§10, 36, 37), the more important motives for adoption, and especially the dominant religious motive, are set forth; here a certain Meneclēs is concerned over his childlessness, and adopts a son, "to care for

him in his old age, to bury him when dead, and ever afterward to offer him the customary rites" (cf. *Ibid.* §25; 12, §§2, 3). And accordingly we observe that the speaker and his wife care for the father during the latter's lifetime, and give to their son the name of the adoptive father (2, 36); and that the adopted son scrupulously performs all religious rites (cf. *Id.* 9, 7). We observe, also, that the adopted son is expected to care for the father's property, when the father has grown old (*Id.* 7, 15). The adopted son becomes, indeed, the official representative of his adoptive father; thus, in *Isaeus* 2, 38-39, certain oaths of amity are exchanged, not with the father, but with the adopted son, as the father's representative; and according to another passage from the same speech (§42), the adopted son performs various offices in the deme and in the tribe.

Isaeus speaks in an interesting and sympathetic manner of the beneficent effects of adoption, as affording to childless men comfort in life and security against loneliness. He says (2, 13): ὁ γὰρ νομοθέτης, ὃ ἄνδρες, διὰ τοῦτο τὸν νόμον ἔθηκεν οὕτως, ὅρων μόνην ταύτην καταφυγὴν οὔσαν τῆς ἐρημίας καὶ παραψυχῇ τοῦ βίου τοῖς ἄπαισι τῶν ἀνθρώπων, τὸ ἐξεῖναι ποιήσασθαι ὃν τινα ἂν βούλωνται.

In addition to such primary and fundamental motives for adoption as these, secondary motives are sometimes seen. Thus, in *Isaeus* 2, 20, the good will of the Menecles, above mentioned, toward the family of the adopted son, is represented as a motive for adoption. Again, it appears from *Isaeus* 10, 17, that it was sometimes customary for parents who were poor to give their sons in adoption into a wealthy family, in order that the sons might escape their parents' disabilities.

It is clear, I think, from the foregoing citations, that the adopted son's duties were practically identical with those of the son by birth.

Proceeding now to an examination of the regulations of the Athenians concerning adoption, we find that the adoptive power was restricted in many directions. And, first of all, it is to be noted that adoption could regularly take place only when both parties interested were citizens of Athens (see Jevons, *Manual of Greek Antiquities*, p. 551; Schömann, *Antiquities of Greece*, p. 357, n. 1),—a restriction which seems perfectly natural, when we bear in mind the attitude of the State toward

the family and the religious cult. And although it is possible that all phratries did not require that the adoptive son should be an Athenian citizen (see *Der attische Process*, p. 543), yet it was certainly the established rule that the Athenian father, when presenting an own son or an adoptive son to the members of his phratry, his clansmen, or his demesmen, made oath that the son was born of a duly wedded wife who was an Athenian citizen* (Isae. 2, 14; 7, §§15, 16; 8, 19; Dem. 57, 54; [Dem.] 59, 60).

Every Athenian who proposed to adopt a son must be of age himself—18 or over (see Jevons, *op. cit.* pp. 458, 550; *Der attische Process*, p. 544). No woman was permitted to adopt, since, as we have hitherto seen, she was held to be incapable of either carrying on the religious observances, or of discharging the obligations to the State. Other conditions under which adoption could take place are enumerated in part of a law found in Pseudo-Demosthenes (46, 14). Here we observe that a man could dispose of his property by will according to his pleasure,—in other words, exercise the power of adoption,—if he had no legitimate sons,† if he was not mentally incapacitated by old age, or by drugs, or by disease, or influenced by a woman, or under constraint.‡ Isaeus makes many references to this law (*e. g.* 1, 11; 2, §§13, 14; 3, 1; 4, §§14, 16; 6, 9), and especially emphasizes the requirements that the Athenian who contemplated adoption should have no legitimate sons,§

*In Andocides, 1, 127, the speaker, in telling the story of Callias, and speaking of the presentation of the latter's son, makes no mention of the customary oath as to the child's mother. But we cannot conclude from this that the oath as to the child's parentage was not regularly required; arguments *ex silentio* are obviously unsafe, and, apart from this, we must remember that Callias' course of conduct is described as unnatural and reprehensible throughout.

† This rule does not appear to have been operative in case an Athenian father had formally repudiated a son (see *Der attische Process*, p. 544).

‡ With regard to the somewhat ambiguous language found at the beginning of the passage, ὅσοι μὴ ἐπεποίητο, ὥστε μήτε ἀπειπεῖν μήτ' ἐπιδικάσασθαι, ὅτε Σόλων εἰσήει τὴν ἀρχήν, κ. τ. λ., see Wyse's remarks (*Commentary*, pp. 248-249).

§ An Athenian father of legitimate sons was apparently permitted, however, to adopt a son by will provisionally, on condition that the

should not disinherit his daughters, and should be in the full possession of his physical and intellectual powers. And such requirements as these were entirely reasonable; for, keeping in view the primary motives for adoption, it was entirely unnecessary that the Athenian, who already had a male heir, should adopt a son; and since, furthermore, adoption was equivalent to willing away property from the next of kin, who would otherwise inherit, it was highly desirable that the Athenian who contemplated such a step should be in the full possession of his mental powers.

If an Athenian had a daughter, but no sons, he could adopt a son by will, but only on condition that the prospective son by adoption should marry the daughter—as we have previously noted * (cf. Isae. 3, §§ 42, 68 ff.; 10, 13); and the same condition would apparently hold when an Athenian adopted a son *inter vivos* ([Dem.] 41,

Marriage of nian adopted a son *inter vivos* ([Dem.] 41,
Daughter and 3). The reasons for this are clear and have
Adopted Son. already been foreshadowed; the Athenian law
 required that the inheritance be kept within
 the family; and, as the daughter was disqualified to possess the
 estate for herself, and to perform the duties of the heir, the
 difficulty was solved by requiring the daughter to marry the
 adoptive son. The Athenian citizen could also accomplish the
 desired result by adopting his daughter's son, in case the daugh-
 ter was already married (see Jevons, *Manual of Greek An-
 tiquities*, p. 550).

We observe that the adopted son, on gaining the inheritance, was forbidden to adopt in turn. If sons were born to him they became the heirs; but if he died without leaving a son by birth

adoption should take effect only in case his own sons died before reaching their majority ([Dem.] 46, 24; cf. *Der attische Process*, p. 545). Wyse, however, is sceptical on this point (see *Commentary*, pp. 185-186).

* An Athenian was precluded by law from adopting a stepson, in case he had daughters of his own by the mother of the stepson; for, on the one hand, the daughters could not be disinherited; nor, on the other hand, could the stepson marry a half-sister who was the daughter of his own mother (see Isae. 8, 40, and Wyse's note, *Commentary*, p. 621).

as his representative in the house of his adoption, the inheritance reverted to the original house of the adoptive father, and was claimed by the next of kin ([Dem.] 44, §§23, 63-65, 67-68; 46, 14). In the second of the passages just cited, the

Restrictions imposed upon the Adopted Son. speaker very clearly explains the reason for these regulations. He says: "Is it not evident that each one of you is excluded from the right of inheritance, whenever the privilege of adopting in turn

is accorded to adopted children? For you observe that many men adopt sons when under the influence of flattery, or in a spirit of hostility, because of differences with their relatives. If, now, it shall be permitted to the adopted son, contrary to the law, to adopt whomsoever he may choose, the inheritance will never be given to the kinsmen. To guard against this contingency, the legislator forbade a person who was himself adopted to create a son by adoption."

As further illustrating the restrictions imposed upon the adopted son, we may note that the laws of Solon did not allow the adopted person even to bequeath by will the property which he found in the house of his adoptive family ([Dem.] 44, 67).

Again, it would seem that the adopted son did not necessarily receive the entire inheritance. Thus, we are informed by the speaker in the 5th oration of Isaeus, that the adopted son and heir of a certain Dicaeogenes received by will only one-third of the property (§6); the remaining two-thirds were claimed by the sisters of the testator. Nevertheless, in accordance with the religious idea, even under such circumstances the adopted son became the testator's duly appointed representative, and as such was expected to carry on the family worship and perpetuate the name; it is evident, in short, that under no circumstances was the heir absolved from these sacred obligations (see Jevons, *Manual of Greek Antiquities*, p. 550).

The two principal forms or methods of adoption are referred to in the 2d oration of Isaeus (§14), where the speaker shows that he was adopted during the lifetime of the deceased,—not, as sometimes happens, after the testator's death, by will,—and was presented to the members of the phratry, of the clan, and of the deme, of his adoptive father. In another passage from

**Adoption under
a Will and
"Inter Vivos."**

the same oration (§44), the speaker reiterates the fact that he was adopted by act of the deceased during the latter's lifetime; and the language of the speaker clearly indicates that this method of adoption was preferable to the other and more binding. Further, in the 7th oration (§§1, 2), the speaker states that adoption performed during the lifetime of the adoptive father, attended by the performance of sacred rites, and accompanied by presentation to the kinsmen and enrollment in their records, is less open to suspicion than adoption under a will; the latter method, in fact, is never sure.

Thus it is evident that those sons who were adopted *inter vivos* had a distinct advantage over the sons adopted by will. In fact, it is clearly shown throughout Isaeus' 2d oration—as indicated above—that the son duly admitted into the relation of adoption during the lifetime of his adoptive father was practically on an equality with the son by birth, and immediately entered upon the son's full rights (cf. Isae. 3, §§59 ff.). On the other hand, the son adopted by will could not receive recognition as the heir, until he had established before the court the validity of the will (Isae. 6, 3; 3, 60; 9, 3; 10, 9; [Dem.] 44, 19)—a situation in sharp contrast with the position of the son by birth, who, without interference, and without process of law, entered immediately upon the possession of his inheritance (Isae. 3, §§59-61).

It is possible, however, that the son adopted *inter vivos*, although under no obligation to claim the inheritance by law, did sometimes so claim, for legal reasons (see Wyse, p. 345). But there can be no doubt that the position of the son adopted by will was exceedingly perilous. We observe that four of Isaeus' orations (the 4th, 5th, 9th, and 10th) are directed against sons adopted by will; and Isaeus tells us (3, 61)—referring unquestionably to sons adopted by will, as is evident from the context—that all relatives consider themselves justified in disputing the claims of adopted sons; further, that "all adopted sons claim at law."*

* Wyse (p. 345) objects to this statement on the part of Isaeus, on the ground that the orator is thus virtually identifying the position of

A particularly striking passage, illustrating the perils of the adopted son, and the unblushing effrontery with which false claimants appeared when a rich inheritance was in dispute, occurs in Isaeus' 4th speech (§§7, ff.). I shall have occasion to refer to this passage later in connection with another topic.

The orators record instances of a third form of adoption, which sometimes took place when the deceased had neither left a son nor made a will; under these circumstances, the next of kin was expected to perform the adoption, in order that the family and its *sacra* should not become extinct (see [Dem.] 44, 43; cf. Sir Wm. Jones, *Works*, Vol. iv, p. 231). This is sometimes called "posthumous adoption," to distinguish it from

the other forms mentioned above. An instance of this form of adoption is found in Isaeus 11, 49; here a certain Theopompus gives his son in adoption into the family of his wife's deceased brother, since the latter has died intestate and childless. A reference to this third form of adoption is found also in Isaeus 7, §§31, 44. Here the adoption should evidently have taken place, but had not been performed; the wife of a certain Pronapes and her sister had already inherited the property of their brother, but had ignored the obligation to appoint one of their children his legal representative.

It is possible that the archon was sometimes called upon to perform the act of posthumous adoption into the house of a deceased and childless person in order to save such a house from extinction, in case no heirs had been found among the

the son adopted by will with that of the son adopted *inter vivos*, and that he does so deliberately, with the view of misleading the judges. But it seems to me that Isaeus is here presenting a general contrast between the status of children born in lawful wedlock and that of children adopted under a will; the latter are specifically mentioned in §60, and the general statement which closely follows—to the effect that all adopted sons claim at law—would obviously refer, I think, to sons adopted under a will, even though Isaeus does not say so specifically. The thought is perfectly obvious from the context; the orator clearly has in mind adopted sons of the class just mentioned, and omits, in the latter part of the passage under discussion, to make mention of a will in connection with the reference to the fact of adoption, in order, I should say, to avoid an unnecessary repetition.

relatives or distant kinsfolk; the matter is not indisputably clear, however (see Wyse, p. 576).

The act of adoption was not, under all circumstances, perpetually binding. Thus, from Isaeus 10, 11, it is seen that an adopted son could return to his father's house,* if he left a son of his own to take his place in the house of his adoption; as

Isaeus expresses it in another passage (6, 44), *ὁ γὰρ νόμος οὐκ ἔᾶ ἐπανέναι, ἐὰν μὴ υἱὸν καταλίπη γνήσιον* (cf. Id. 9, 33; 10, 11; [Dem.] 44, §§33, 46, 47, 64). While there can be no doubt of the right of the adopted son, in

such a case as this, to renounce—*ἀπειπεῖν*—his adoption ([Dem.] 46, 14), we are unable to state explicitly what further conditions accompanied such a renunciation. Meier & Schömann express the belief that the Athenian and his adoptive son could dissolve the relationship by mutual agreement (*Der attische Process*, p. 548). Demosthenes records an instance—previously referred to in other connections—in which an Athenian and his adoptive son became estranged, whereupon the irate parent takes his daughter from her husband—the adoptive son—and gives her in marriage to another, thus dissolving the relationship with the first adoptive son (Dem. 41, §§3, 4).

Again, we observe that every adopted son retains his interest in his mother's property, whether he remains in the family of his adoption or not † (Isae. 7, 25); but, on the other hand, he

* Wyse (p. 645) says of the law which regulated the return of the adoptive son to his original family: "The curious results which flowed from this law may be seen in [Dem.] 44. 21 sqq., 46 sqq. Leocrates I, the adoptive son of Archiades returned to his natural family, leaving his son Leostratus in his place as son of Archiades. Leostratus in due time returned to the family of his father Leocrates I, and left his son Leocrates II as son of Archiades. Thus Archiades had in succession three adoptive sons, and, so far as the law was concerned, apparently might have had an indefinite number but for the death of Leocrates II without a son who could serve as a substitute."

† Meier & Schömann (pp. 546, 547) explain the fact that the adopted son's relations to his mother, in either case, remain unchanged, on the principle presented in Isaeus 7, 25: *μητρὸς δ' οὐδεὶς ἔστιν ἐκποίητος*. It is evident that the adoptive son could still inherit from his own mother and was still responsible for her support, in case she had need of it. Keeping in mind the primary object of adoption, it is evident that

severs his relations with his own father and with the family of the latter, as soon as he is given in adoption into another house (Id. 10, 4), unless he returns to his original family according to law (Id. 9, 33). Isaeus (9, 2) tells us of a certain Cleon and his son, who, having been adopted into another family, have no claim on the estate of one Astyphilus. A very striking illustration of the fact that the adopted son severs his connection with his original family is found in Isaeus 5, 47, where the speaker points out that the adopted son can claim no favors from the State on the ground of illustrious ancestry; he has severed his connection with the family of Harmodius and Aristogeiton, to be adopted into another house; and has thereby deprived himself of all privileges attaching to the descendants of such distinguished men.

We observe that the adopted son was peculiarly indebted to the State, since by favor of the State he possessed his inheritance. Isaeus expresses this in the 5th oration (§37): οὐχ ὁ πατήρ αὐτῷ τὴν πολλὴν οὐσίαν κατέλιπεν, ἀλλ' ὑμεῖς ἔδοτε τῇ ψήφῳ. These words are addressed to the jury, and the

The Adopted Son and the State. orator refers to the adopted son. Here the speaker strikes the keynote of the oration; and the enormity of the offense of neglecting to serve the State is powerfully set forth (§§35 ff., §§41 ff.). And naturally the State was vitally interested in the matter of adoption (see Isae. 7, 30), since, as I have endeavored to show, any interruption in the family line would probably result in the discontinuance of the family cult, and in the loss of services to the State.

It is evident that the Athenians approved of the practice of adopting a relative, whenever possible (Isae. 2, 20; 6, 6; 7, §§4, 43). Schömann calls attention to the fact that before Solon's time the law permitted an Athenian to adopt none but

nothing would have been gained by severing the adoptive son's relations with his own mother; and that the continuance of these relations might prove to be an advantage. On the other hand, it would unquestionably have complicated matters to permit the adopted son to continue his relations with his natural father.

a relative, and that after Solon's time the Athenians kept to the old limitation by the force of custom (*Antiquities of Greece*, p. 357; cf. *Plut. Sol.* 21; *Dem.* 20, 102). The

Adoption of motives which prompted to this course of action
Relatives. tion were clearly identical with those which impelled a man to give a daughter in marriage to a relative, namely, to keep the inheritance within the family, and to insure the fulfillment of all religious and civic obligations; for family pride, natural impulses, and the force of hereditary associations would naturally impel such an adoptive son to carry on zealously the family worship, and to discharge the other obligations devolving upon the head of an Athenian family.

With respect to the adoption of a daughter, Jebb (*Selections from the Attic Orators*, p. 383) remarks: "The adoption of a daughter was comparatively rare, since, unless a son was born to her, the continuance of the *oikos* was not secured. Such exceptions illustrate the use of the Attic adoption to gratify a

Adoption of personal preference, apart from the original ob-
Daughters. ject of perpetuating the family rites." Two instances of adoption of this character are recorded by Isaeus, in each of which a niece is adopted (*Or.* 11, §§8, 41). Another somewhat peculiar instance of adoption is mentioned by Isaeus, in which a certain Apollodorus makes a will leaving his property to his half-sister, and naming her future husband, thus apparently acquiring a father's rights over her, in so far, at least, as the power of arranging for her marriage was concerned (*Or.* 7, 9; cf. *Der attische Process*, p. 505); we observe, however, that the adoption was to take effect only in the event of Apollodorus' death.

The adoption of a grandson seems rarely to have taken place among the Athenians; Wyse (p. 617) notes only three unquestionable instances ([*Plut.*] *Vit. X. Or.* 843 A; [*Dem.*] 42, §§21, 27; 43, 37), and observes in this connection: "It is obvious that by adopting a daughter's son a man could guard against the troubles caused by contentions for the hand of an *ἐπίκλητος* and defeat the designs of rapacious relatives."

The ceremonies of adoption, which appear to have been marked by great solemnity, are described by Isaeus in the 7th

oration (§§14, ff., 27 ff.). Here we observe that at the festival of Thargelia the speaker was brought to the altars in the presence of the kinsmen and members of the phratria; and that the adoptive father then made the customary oath that the speaker was born of a duly wedded wife who was a citizen of Athens—ceremonies similar to those which accompanied the presentation and enrollment of a son by birth, as we have previously observed (cf. Isae. 8, §§19, 20). We have heretofore noted the importance of these presentation ceremonies, as evidencing the legitimacy of the son by birth; and it is clear that such a presentation was customary and desirable, as a precautionary measure, in order to establish the legal and social position of the adopted child (Isae. 2, 14; 7, 16).

CHAPTER VIII.

LEADING ASPECTS OF THE ATHENIAN INHERITANCE SYSTEM.

It is not the intention of the writer to enter, at this point, into an elaborate discussion of the Athenian law of inheritance, but to present very briefly certain important principles of Athenian succession, in so far as they affected the family, or the individual, or the relations of either to the State.

In the first place, it is obvious that the same fundamental ideas which dominated the Athenians in all their family relations—namely, the idea of the perpetuity of the family and the domestic cult, and of the fulfillment of all obligations to the State—were also operative throughout

Leading Ideas in their inheritance system. The authors of *Der attische Process* (p.

Athenian Succession. 540), speaking of the principles of inheritance in connection with the various forms of adoption, and particularly in connection with posthumous adoption, remark: “Bei dieser dritten Art muss man sich nur an die leitende Idee des Attischen Erbrechts erinnern, wonach man in Athen vorzügliche Sorgfalt darauf richtete, dass kein bestehender Hausstand (*οἶκος*) eingehe, und dass der Erbe nicht blos Erbe des Vermögens, sondern auch Stellvertreter der Person des Verstorbenen in Rücksicht auf persönliche, Familien- und Gentilitätsrechte und Pflichten werde.”

Again, we observe that in the whole question of inheritances and of the classification of heirs, the males received the preference, whether in the direct line or in the collateral branches. Isaeus (7, 20) cites the law which gives the preference to male

heirs: * *κρατεῖν δὲ τοὺς ἀρρενας καὶ τοὺς ἐκ τῶν ἀρρένων, οἱ ἂν ἐκ τῶν αὐτῶν ᾧσι, καὶ γένει ἀπωτέρω τυγχάνωσιν ὄντες.* **Preference** **for Males.** (Cf. [Dem.] 43, 51.) The interpretation of this passage has occasioned much controversy,† but

* Isaeus, unfortunately, in the passage cited (see §§18-26), undertakes to apply the law exclusively to the case of first cousins and relatives more distant than first cousins, whereas the principle is clearly one of universal application (see *Or.* II, §§1 ff. [Dem.] 44, §§12 ff.), as Wyse clearly points out (pp. 560 ff.).

† See *Der attische Process*, p. 586; Thalheim-Hermann, *Griechischen Rechtsaltertümer*, p. 64.

(understanding an ellipsis of ἐξ ὧν τε αἱ θήλειαι) it is probably to be rendered as follows: "Preference shall be given to males and the descendants of males (over females and the descendants of females) if the males have the same origin (as the females), even if they (the males) are in degree more distant (from the common ancestor)" (see Wyse, *Commentary*, pp. 564 ff.). The same law is again referred to by Isaeus (II, 17), and by Pseudo-Demosthenes (44, 62). The principle is also seen in the right of the nearest male relative to inherit the property, in case a man dies intestate and childless ([Dem.] 44, §§12, 14; Isae. 4, §§15, 23; 5, 16). One of the chief reasons for this—namely, the thought that only a male heir was properly qualified to carry on the religious observances inherited from his predecessor—is admirably brought out by Perrot (*L'Éloquence Politique et Judiciaire à Athènes*, pp. 379-380): "A l'origine, comme le dit M. Fustel, 'la descendance en ligne masculine établissait seule entre deux hommes le rapport religieux qui permettait à l'un de continuer le culte de l'autre. La religion n'admettait pas de parenté par les femmes. Les enfants de deux soeurs ou d'une soeur et d'un frère n'avait entre eux aucun lien et n'appartenaient ni à la même religion domestique ni à la même famille.' Il s'ensuivait qu'ils ne pouvaient hériter les uns des autres."

It is interesting to note that the laws of Solon made no mention of succession by ascending grades,—the "melancholy succession," as it has been called,—since, as Perrot observes, "the whole thought that dominated the ancient right of suc-

cession was to assure by inheritance the perpetuity of the family" (*op. cit.* p. 377; cf. Wyse, p. 693). Here we have an explanation of the phenomenon of collateral relations receiving the prefer-

ence over the heirs by ascent; for it is evident that the brother or cousin, still young, married, or likely to be, was better qualified to undertake the duties of the heir than the father or mother, already old, or the grandfather, still more aged. Perrot remarks further (*op. cit.* pp. 377-378), that this tendency went so far among the Athenians that there was sometimes danger of the aged parents dying in misery, while the rich inheritance of their son went to distant cousins.

No "Melancholy Succession" among the Athenians.

The opening sections of Isaeus' 11th oration inform us in regard to the inheritance rights of collateral kinsfolk, when an Athenian citizen had died without leaving lineal

Inheritance heirs. We observe that under these circumstances the Attic law called the collateral relatives to the succession in the following order:

(1) Brothers inherited, being sons of the same father as the deceased.

(2) Such brothers' children inherited, males and females having an equal right.

(3) Sisters by the same father received the inheritance.

(4) Such sisters' children inherited, males and females having an equal right.

(5) First cousins (*ἀνεψιοί*) on the father's side inherited, males being preferred to females.

(6) Children of such first cousins (*ἀνεψιαδοί*) inherited, with a like preference;* and beyond this relationship the right of inheritance—*ἀγχιστεία*—apparently did not extend, in so far as regards collateral descendants on the father's side.

Finally, in the absence of any heirs of the classes enumerated above, we observe that the inheritance reverted to the maternal side, and that the next heirs were (7) brothers born of the same mother as the deceased, and so on.† In the case of the heirs of the last class, Isaeus tells us (*Ibid.* §2) that they inherit in the same order as do the kinsfolk on the father's side. And the fact that Athenian law called to the succession kinsfolk of the deceased on the father's side down to first cousins once

* It seems improbable that the expression used by Isaeus in the 2d section of the oration, *μέχρι ἀνεψιῶν παίδων*, is to be interpreted as meaning "as far as descendants of first cousins," even though certain eminent scholars do so understand the phrase (*e. g.*, Thalheim-Hermann, *op. cit.* p. 68; cf. *Der attische Process*, p. 585). Wyse objects to this interpretation and very properly asks: "What is the use of a limit that is in perpetual motion? The only natural meaning of *μέχρι ἀνεψιῶν παίδων* is, up to, and including, sons and daughters of first cousins. Whether we look at the rights of succession, or at the duties of the blood-feud, or at the honors owed to the dead, we discover on all sides that the *ἀγχιστεία* was a conception that could not be extended indefinitely" (*Commentary*, pp. 566 ff.).

† See Sir Richard Jebb's summary (*Attic Orators*, II, p. 357).

removed (Isae. 7, 22), before admitting any relatives on the mother's side, strikingly illustrates the preference which the Attic law accorded to the male line.

Of course the direct descendants are the natural and inevitable heirs—inevitable, because of the obligations of the head of the family and his successors to religion and to the State. The direct descendants, whether sons or grandsons—and it is clear that the succession of grandsons, as well as that of sons, was carefully protected by the Attic law (Isae. 8, 34)—take immediate possession of the inheritance, while the collaterals must resort to law (see *Der attische Process*, p. 573).

The general character of the Athenian law of succession, as it appears in Isaeus, is well set forth by Perrot in his delightful work, *L'Éloquence Politique et Judiciaire à Athènes*. Perrot speaks of the Athenian system as a compromise between the primitive law of the family,—although

General Character of Athenian Succession. not wholly dominated by a religious idea so uncompromising as the early family law implies,—and that system

of law, “founded upon equity and reason, which the great Roman jurists of the 2d and 3d centuries of our era were laboring to establish, under the influence of Greek philosophy.” In the Attic law, Perrot thinks, there are everywhere found traces of a distant past; certain traditions and practices can only be explained by beliefs already declining. Concessions and modifications are appearing; there is lack of harmony between law and custom, “between the hard logic of the institutions of the past and the new needs of the conscience” (*op. cit.* pp. 384-385).

With a few observations as to the general attitude of the Athenian tribunals with respect to the execution of the wills of deceased Athenians, this chapter will be concluded.

One would naturally expect that, in view of the extreme solicitude of the individual with regard to his heir, and in view of the attitude of the State toward the family and the religious cult, the Athenian citizens who voted in the law courts, and who temporarily represented the city of Athens, would have regarded it as a sacred duty to carry out scrupulously the wishes of every property owner. But, unfortunately, we find

that the wishes of Athenian testators were frequently disregarded; that the judges often took great liberties with testaments, and rarely hesitated to follow their own sympathies and preferences; and, furthermore, that false claim-

Recklessness of Athenian Tribunals. ants came forward and demanded estates with the most unblushing effrontery. Thus, in the 9th oration of Isaeus (§§1, ff., and especially §§7-13), we read of an attack on a duly at-

tested will which is truly amazing. Here the speaker makes no attempt to overthrow the credibility of the witnesses by inquiring into their reputations or antecedents; he deals with probabilities, and demands the abrogation of the will largely on the presumption of the testator's intentions!

Another passage, illustrating, in a picturesque manner, the perils which beset even a duly authorized heir, and the brazen audacity of false claimants, is found in Isaeus' 4th oration (§§7, ff.). Here the speaker, after referring ironically to the readiness with which a false claimant would shave his head in token of grief for the deceased, whenever a rich inheritance was in dispute, continues: "Who would not wear a garb of mourning, as though by reason of his grief he would gain the inheritance? And how many kinsmen and sons adopted by will claimed the estate of Nicostratus? Demosthenes said that he was the nephew of the deceased; and when he had been convicted of falsehood . . . he retired. And Telephus said that Nicostratus had given to him all his possessions; and this fellow not long afterwards relinquished his claims." The speaker then mentions several other false claimants who successively appeared and retired, and finally the principal claimant, who first demanded the inheritance on grounds of kinship, and then under a will (cf. *Id.* 1, 21).

Again, in the *Wasps* of Aristophanes (583-586) the old dicast tells how he and his associates set wills aside whenever it suits their pleasure, and even refuse to permit the daughter of a deceased Athenian—the *ἐπίκληρος*—to marry the man whom her father had selected as her future husband:

κἀν ἀποθνήσκων ὁ πατήρ τῷ δῶ καταλείπων παῖδ' ἐπίκληρον,
κλείειν ἡμεῖς μακρὰ τὴν κεφαλὴν εἴποντες τῇ διαθήκῃ
καὶ τῇ κόγχῃ τῇ πάνυ σεμνῶς τοῖς σημείοισιν ἐπούση,
ἔδομεν ταύτην ὅστις ἂν ἡμᾶς ἀντιβολήσας ἀναπέιση.

It is astonishing and painful to think that an Athenian tribunal should have deliberately ignored anything so sacred as the rights of the lawful heiress, and the last wishes of the father as to his representative and successor; but I can see no reason to doubt that Aristophanes is here actually reflecting Greek life. Such a manifestation of recklessness and infidelity to duty on the part of a large body of responsible citizens certainly reflects most unfavorably on Athenian character and Athenian judicial methods.

CHAPTER IX.

CONCLUSION.

As we contemplate Athenian private life in the retrospect, and endeavor to formulate our impressions with regard to its more important aspects, several distinct and striking peculiarities suggest themselves to us. First of all,

Leading As- we note the dominating influence of ancestor
pects of Greek worship, and the uncompromising demands
Family Life. of the State upon the family and the individual. These were very real factors in

Athenian life; and although the influence of ancestor worship, during the times of the orators, seems to be losing its original potency, and to exist, at times, as a theoretical and traditional, rather than a vital force, yet it is an influence that cannot be disregarded; without a proper appreciation of its significance, many of the phenomena of Greek private life, as we have seen, would be well-nigh incomprehensible.

The deplorable position of the Athenian woman, and her narrow and isolated life, next attract our attention. Nowhere in her career is she properly appreciated; whether we view her in the capacity of daughter, sister, wife, mother, or widow, she is invariably subject to the caprice and domination of another, and very rarely permitted to assume in the home or the community the position of honor which should have been accorded her. And if she happened to occupy the position of an heiress, then her lot in life was indeed perilous. To be claimed in marriage by an elderly uncle who cared only for the fruits of the inheritance which accompanied her, or by a youthful cousin for whom she may have had a particular aversion, was bad enough; but it was infinitely worse to feel that, even though she enjoyed the fortune of being happily wedded, yet she might, at any time, be torn from her husband, and compelled to enter new marriage relations, in case her father had left no sons, or her brother, himself the heir, had died. And even though she

escaped all other perils, yet she was constantly confronted by the thought that she and her husband were considered of minor importance as compared with her son—the heir of the estate; and that this son would some day sweep them aside and enjoy for himself the inheritance which had cost his parents so dear.

This, of course, is the darker side of the picture. It would be palpably unfair to ignore the brighter side, and to eliminate from our sketch all that is cheerful and charming, and more in accord with the idealism of to-day. And there can be little doubt that many of the attractive portraits which are found in Greek literature were not the creations of the author's imagination, but represented actually existing types. And still, when we view the situation as a whole, we are forced to acknowledge that such ideal types were comparatively rare; that it is not the lights, but the shadows, which, after all, predominate; and that the picture, in its general aspects, is distinctly sombre.

In forming our final estimate of the Athenian woman's lot, we must, however, endeavor to place ourselves in the position of the Athenians, so far as is possible; and, in particular, we must take into consideration the influence of ancestor worship, the stern demands of the inheritance laws, and the obligations which every Athenian citizen owed to the State. These influences rendered it difficult, if not impossible, for the men of Athens to assign to the women of their commonwealth positions of influence in society, or to regard them with anything even approaching the esteem and respect with which women are regarded to-day. The Athenian woman's position was not, after all, at variance with the hard logic of the old institutions. We must constantly bear in mind—as I have heretofore endeavored to point out—that the obligations of the citizen to religion and to the State were considered of paramount importance. Inasmuch, then, as the woman was held to be disqualified to serve the family and the State by performing the religious duties which devolved upon the heir, as well as incapable of discharging the arduous and expensive public services that fell to the lot of the head of an influential family,—therefore, from the point of view of the individual and the State, it was thought proper that she should occupy a wholly subordinate position in the inheritance system. It was cruel,

and yet it was doubtless inevitable ; and perhaps it did not seem altogether odious and intolerable to the Athenian woman herself.

But, even after making all possible allowances, we cannot excuse the men of Pericles' time for the selfishness, lack of appreciation, and—from our point of view—downright cruelty, which too often characterized their attitude toward the other sex. All that was most beautiful and sacred in a woman's life was apparently in danger of being ruthlessly shattered at any moment, and especially if she happened to be so unfortunate as to have inherited an estate ; she was treated, at times, almost as if she were a being apart from ordinary humanity. Her sad and isolated life, during the brilliant period of Athens' political and intellectual supremacy, constitutes one of the most astonishing phenomena in the history of the Greek states.

And finally, as we conclude our brief survey of Athenian social life, we are impressed by the lack of independent authority on the part of the husband and father, and the consequent weakness of the family in all its relations. Nothing even approaching the effectiveness of the Roman *patria potestas* is found among the Athenians. The powerlessness of the Athenian father to preserve the integrity of his family, and the encroachments of the inheritance laws upon the most sacred rights of the members of the family, and especially of the husband and wife, constituted one of the most serious defects in the Athenian social system. And yet the Athenians unquestionably believed that, in subordinating the family so completely to the State, they were insuring their own welfare and the permanency of their institutions ; whereas, instead of providing for the perpetuity of Athens, they were actually hastening their political downfall.

In conclusion, it must be admitted that the family life of the Athenians in the times of the orators was full of peril. Dominated as the family relations were by the obligations to the ancestors and to the State, neither husband, wife, son, nor daughter could tell when life's hope and happiness might be shattered. There was something radically wrong in a social system in which the very bulwarks

Our Final Impressions.

of society—the sanctity of married life and the integrity of the family—were likely to be ruthlessly attacked at any moment. Far more pleasing is the picture of the old Roman father surrounded by his family; a father stern and often cruel, if you will, but secure in the possession of his own,—a mighty force in the massive and long-enduring Roman civilization.

It is amazing that the Athenians, with all their intellectual power and keenness, with their exquisite sense of proportion, and with their ardent admiration for the ideally beautiful,—it is amazing that they should have tolerated such abuses, and ignored the very safeguards of their national life. In their superstitious fear lest they should offend some deified ancestor, they trampled upon the most sacred rights of the individual and the family; they wronged the living in their efforts to honor the dead. While endeavoring to create a more powerful social and governmental fabric, they struck a deadly blow at individual liberty; theirs was the fatal error of destroying the integrity of the component parts, while striving to create a more perfect whole. In the ultimate analysis of the conditions which confront us, it is impossible to deny that the individual and the family existed for the State. The Athenians of the period of Isaeus and Demosthenes, it is true, had evidently begun to realize that their point of view was fundamentally wrong, and that the institutions of the past were insufficient for the larger life and the changed conditions which had arisen. But, even though they may have awakened to a consciousness of their past errors, and of the perils still impending, the awakening came too late; the fatal mischief had been wrought; and the abuses which had sprung up and had been fostered for so long a period of years, were already bearing their deadly fruit. There can be little doubt that the weakness of the Athenian family in all its relations, coupled with the failure on the part of the men of Athens to appreciate the proper relations to be observed between the family—collectively and individually—and the State, contributed in no small degree to the early downfall of Athenian political power.

VITA.

Charles Albert Savage was born in Stockbridge, Massachusetts, September 4, 1866. During his boyhood he attended various schools in Montreal, Canada, in Stockbridge, and in New Jersey, and particularly the high schools of Stockbridge and of Plainfield, New Jersey. He moved with his family to St. Paul, Minnesota, in 1882; and after working for two years in a business office, he graduated from the high school of St. Paul in 1885. In the following autumn he entered the University of Minnesota, and remained in attendance at that institution for three years, after which he spent several years in business life. He entered Johns Hopkins University in the fall of 1894, and received the degree of Bachelor of Arts in June, 1895. In the following fall he entered the graduate department of Johns Hopkins, and selected as his subjects Greek, Latin, and Sanskrit; he pursued this line of work until January, 1898, and from October, 1898, to June, 1899. In the summer of 1899 he was appointed instructor in Latin at the University of Minnesota; he was made assistant professor of Latin at the University of Minnesota in the spring of 1903; and in June of the same year he received the degree of Doctor of Philosophy from Johns Hopkins University. In the spring of 1904 he was made assistant professor of Latin and Greek at the University of Minnesota, which position he now holds.

